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PROCEEDINGS OF

Select Committee
Labor Relations Act

Held at Parliament Bldgs
Toronto, Ontario

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LEGISLATIVE ASSEMBLY OF ONTARIO

SELECT COMMITTEE ON LABOUR RELATIONS

Committee Room No. 1, Parliament Buildings,
Queen's Park, Toronto, Ontario

Tuesday,
October 1, 1957.

JAMES A. MALONEY	Chairman
HAROLD PERKINS	Secretary
GEORGE T. WALSH, Q.C.	Committee Council

MEMBERS:

- G. E. Jackson
- Donald C. MacDonald
- Ellis P. Morningstar
- Raymond M. Myers
- Arthur J. Reaume
- H. Leslie Rowntree
- J. W. Spooner
- Albert Wren
- John Yaremko
- Robert Macaulay

APPEARANCES:

Hon.Charles Daley,	Minister of Labour
J. B. Metzler,	Deputy Minister of Labour
J. Finkelman	Chairman,Labour Relations Board

ONTARIO FEDERATION OF LABOUR

David Archer	Executive Secretary
Douglas Hamilton	Secretary-Treasurer
Gordon Milling	Director of Research
Ted Goldberg	Research Staff, United Steelworkers Union

Vice-Presidents

George Barlow	Retail-Wholesale Department Store Employees
William Boothroyd	Machinist
William Punnett	Rubber Workers
Dick Courtney	U.A.W.

---Upon resuming at 11.00 a.m.

THE CHAIRMAN: It is now eleven o'clock and I am advised by our Secretary that the Minutes of the last session are not as yet ready.

We have received a letter from Judge Anderson accepting our invitation to appear but he has requested that he be supplied with certain date which I am asking the Secretary to have Mr. Metzler supply for him and then we will hear from him again.

This morning we are to receive a submission from the Ontario Federation of Labour, and those who are here representing that body I will ask to rise as their names are called. David Archer, Executive Secretary; Douglas Hamilton, Secretary-Treasurer; Gordon Milling, Research Director; Ted Goldberg, Research Staff United Steelworkers Union. The Vice-Presidents are George Barlow, Retail-Wholesale Department Store Employees; William Boothroyd, Machinist; William Punnett, Rubber Workers; Dick Courtney, United Automobile Workers.

We have received a copy of your brief, and who will be presenting the brief?

MR. HAMILTON: I will be presenting the brief but Mr. Archer will read part of it for me.

THE CHAIRMAN: Would you be good enough to proceed.

MR. HAMILTON: I just want to make this

announcement before we start, that President Kidd is ill and regrets exceedingly that he cannot appear before your Committee because he was looking forward to that privilege.

---Mr. Hamilton and Mr. Archer reads brief of
Ontario Federation of Labour, dated October,1957.

THE CHAIRMAN: Now, Mr. Hamilton, you make reference in your submission to the report of the Ontario Federation of Labour Committee on Labour Relations legislation, which I understand was submitted in February of this year, and in view of the fact that it is made part of your brief I think it would be advisable that this report should also be read into this record. I realize it is going to be rather a lengthy step but there are men here, I understand, who have signed this document who would be able to familiarize us with much of its contents, and in order to get an intelligent view of it I think, while you make reference to certain parts of it in your presentation, the whole report being before us, that we should have it presented to us in the same way as your brief. This is subject, of course, to the members of this Committee.

MR. WREN: Mr. Chairman, this has been in our hands for some months now, and I know that I have studied the report very thoroughly and I do not know that we should ask these gentlemen to spend an hour or an hour and a half reading it. My own personal view is

that we might enter it into the evidence as part of the proceedings and use it as part of the proceedings.

THE CHAIRMAN: I would be interested in hearing the opinion of members of the Committee.

MR. MacDONALD: Can we not take it as read and then proceed to a discussion which perhaps might be more fruitful than another two hours' reading?

MR. REAUME: Is it not a fact that all the important parts of the report are in here?

MR. WREN: Summarized.

MR. REAUME: It is a synopsis of it all.

MR. HAMILTON: Mr. Chairman, there are many things in this report which we stated at the outset is a comprehensive report made over a long period of time and with a lot of study. We would be prepared to answer any questions relative to these two reports. Mr. Goldberg, who was the chairman of the committee, is here and would be glad to go through it page by page and answer any questions of the Committee relative to the report, and I am prepared to answer any questions relative to this second report. The only thing, I suggest it will undoubtedly take the better part of a day to read this report into the record and I think it would take away from the effectiveness of our presentation in answering questions that might come ---

MR. JACKSON: Which report are you submitting to this Committee?

MR. HAMILTON: I am submitting both.

MR. JACKSON: Well, then, it should be in there.

MR. REAUME: I notice in the report where you quote certain things that were said and opinions by men who were acting for the employer. Now, we are going to hear briefs, and have heard briefs, on behalf of the employers, so I do not think that we have to go over all that again.

For instance, at page 9 of the report and at the back of the report Norman L. Matthews, Q.C. devotes a page or two to what he thinks about it and I do not imagine you think along with him.

MR. HAMILTON: I think our part of the report ceases at page 38 with the signatures.

MR. REAUME: If we are going to read a part of it then we would have to read it all.

MR. HAMILTON: It is a summary which appeared in the Labour Gazette but the final report for the intents and purposes of this Committee and our presentation ends with the signatures on page 38 of the report.

THE CHAIRMAN: I think we will adjourn for five minutes and discuss this.

MR. ARCHER: From a strictly legal point of view you must remember that this is the report of an organization that no longer exists.

THE CHAIRMAN: Well, from that I conclude

that we should not consider this report?

MR. ARCHER: Oh, no, we embody it as part of our brief.

THE CHAIRMAN: We will adjourn for five minutes and discuss this matter among members of the Committee.

---Short recess.

THE CHAIRMAN: Gentlemen, it seems to be the opinion of this Committee that we take this report and consider it as having been read and that it be tabled as an exhibit, but that it be understood that the people who are making the presentation on behalf of the Ontario Federation of Labour are ready to submit themselves to questioning on this document as well as on the brief that was presented.

MR. HAMILTON: We are prepared to do that, Mr. Chairman.

THE CHAIRMAN: Does that meet with the approval of the members of the Committee? So ruled.

MR. YAREMKO: Mr. Chairman, I must confess that last spring somebody walked off with my copy of this and I have not had the opportunity of reading it -- that is the report. Might it be possible during the course of our deliberations if we are not going to read all of it, but read certain sections of it, actually read it so that in the course

of our deliberations we will have it in our minds?

THE CHAIRMAN: I think if there is any particular section of the report, Mr. Yaremko, that you want to have read to you that some of these gentlemen will be kind enough to read it if you would direct our attention to any particular part of the report that you want read into the record.

Now, then, gentlemen, dealing with the submissions to the Select Committee on Labour Relations of the Ontario Federation of Labour, I am now referring to the document that has just been read, are there any questions arising out of page 1 of this document?

MR. REAUME: Well, I understand on page one they make it quite clear that they wish to have something written into the Act by way of explaining the Act, a preamble to it, and I wonder if we might have some talk on that -- as to what purpose it would serve. I understand in other Acts that actually there is not any preamble at all but would it not be good if we had one here? Apparently there are some who interpret some clauses of the Act and certain sections of the Act the other way. I for one would be in favour, if it were possible ---

THE CHAIRMAN: Mr. Reaume, you are not dealing with page 1. Is there anyone with any question with respect to the history of the Ontario Federation of Labour as it is outlined on page 1 and

the top of page 2?

MR. JACKSON: Could I ask a question? I notice in the third paragraph the brief reads:

> "Ultimately, the Ontario Federa-
> "tion of Labour will represent
> "unions with a total membership of
> "some five hundred thousand in
> "Ontario."

Would you care to tell us how many you represent now?

MR. HAMILTON: Well, Mr. Chairman, I cannot give you the exact figures but it would be in the neighbourhood of three hundred and fifty thousand. We just merged early this spring and we are now in the process of picking the affiliations up and by a year from now we should have all the affiliations. I would say we have around three hundred and fifty thousand now, that is paying dues.

MR. MacDONALD: In other words, you use the word "ultimately"; is that when you picked up existing dues paying members? You are not talking about any expansion in the future?

MR. HAMILTON: Paying dues to our federation are dues paying members of the Canadian Labour Congress. We will have five hundred thousand.

MR. JACKSON: From the people who were introduced I would assume that this Ontario Federation of Labour represents all types of unions; is

that correct?

MR. HAMILTON: That is correct.

MR. JACKSON: And all types of labour. Is there any one large group that you do not represent or do you represent all of them in Ontario?

MR. HAMILTON: We represent all those affiliated with the Ontario Labour Congress. There were some independent people, I think, here on Thursday who made a presentation to you; those independent people we do not represent -- just the people who are affiliated with the Ontario Labour Congress.

MR. WREN: Do I take it the mine, mill and smelter people are with you?

MR. HAMILTON: No.

THE CHAIRMAN: The Teamsters' Union?

MR. HAMILTON: They are an affiliate.

MR. WREN: Are there any other groups not affiliated?

MR. HAMILTON: The United Mineworkers and the group that appeared here on Thursday -- the United Electrical Workers.

MR. JACKSON: I thought there was a gentleman here from the United Electrical Workers?

MR. HAMILTON: No.

MR. ARCHER: There is a gentleman here from the United Electrical Workers but not with us.

MR. REAUME: If you are acting for all these affiliates, I notice other people are also

handing in briefs who are part of this brief. Why would that be? Would not one brief cover it all or is there some reason for these other briefs?

MR. HAMILTON: I think there is a good reason for it. You had a peculiar problem here on Wednesday and Thursday as well with the Building Trades, which like to come here and spell out in some detail for your Committee the problems arising in that particular trade. On the other hand, the United Automobile Workers, while it is in conformity with this, they have peculiar problems which arise in their own particular trade. We could not possibly bring in a volume that would show everything that comes up in local union problems. I think that is the reason you get it. They will not be contradicted.

MR. MacDONALD: In order to clarify even further the status of this so-called OFL-CIL brief, am I not correct that the executive of the new Ontario Federation of Labour has specifically by resolution indicated that the whole work that went into this and the report itself should be a basis for your present presentation?

MR. HAMILTON: That is right, excepting as modified by the Convention. The modifications you will find in this text; it was modified at our Convention, otherwise it was passed at the Convention as a supplement to our report.

MR. ROWNTREE: Could you tell us in what respect this has been modified, this legislation investigation that was held -- can you tell us in what respect it has been modified and you do not go along with it now?

MR. HAMILTON: I would say that ---

MR. MacDONALD: The top of page 8 is one specific instance.

MR. HAMILTON: I think the major one, of course, is conciliation. The position here in our brief on conciliation is one of the major departures from these particular documents.

MR. ROWNTREE: Well, my question is: Could you list for us -- I do not think you can do it now -- but will you tell us what paragraphs do not apply?

MR. HAMILTON: Yes. We could have that separated out quite clearly for you, that which does not apply now.

MR. WREN: Could you tell me the general requirements for association with the OFL?

MR. HAMILTON: Yes, simply that they must be affiliates with the Canadian Labour Congress.

MR. WREN: They must be affiliated with them before being acceptable to you?

MR. HAMILTON: That is right. Actually all we are in the Province of Ontario is a provincial arm of the Canadian Labour Congress. In other

words, they are the provincial arms; that is, the Ontario Federation of Labour and the City arms, the local district trade council and they are branches of or affilites to the Ontario Federation.

MR. WREN: And when you say the United Electrical Workers are not associated, is it by their own choice or has their application been denied, or what is the situation?

MR. HAMILTON: They were expelled from the old CCL Congress at one time and I do not think they have ever made application to come back into the Canadian Labour Congress after the Canadian Labour Congress was formed. I do not think they have made a specific application to come back in, at least not to my knowledge.

MR. WREN: Why were they expelled, do you know?

MR. REAUME: There were some allegations.

MR. ARCHER: They were expelled for non-payment of dues.

MR. REAUME: That covers it. You know as much about it as I do.

MR. WREN: Why is the mine, mill and smelter union not associated -- the mining, mill and smelter workers -- why are they not associated with the CLC?

MR. HAMILTON: As far as I am concerned, I have not any evidence, but it is common knowledge

in the labour movement they were at one time, or still are, communist-dominated organizations, and they were asked to get out of the trade union movement, both the mine, mill and smelter and United Electrical.

MR. WREN: Your group is not willing to associate with any group that is communist-dominated?

MR. HAMILTON: Absolutely not.

MR. WREN: So there is evidence that they might be?

MR. HAMILTON: That is right.

MR. REAUME: On that one aspect of it, if an outside union wants to become part of you and it is only alleged that they have done something wrong or are alleged or believed to have tendencies of being Red, are they entitled to have a hearing before some board of your organization?

MR. HAMILTON: Yes, they have a hearing, and the final decision whether they are taken into our organization or whether they are to be expelled from our organization -- the final decision is made at a convention.

MR. REAUME: Always?

MR. HAMILTON: Always.

MR. WREN: In other words, if they are accused of being sympathetic to communism it would have to be established to the satisfaction of the general convention?

MR. HAMILTON: That is right.

MR. ROWNTREE: Would you amplify that, Mr. Wren; when you say "they", who do you mean -- the members of the union, the men or the leaders?

MR. WREN: Well, I do not know.

MR. ROWNTREE: Because there is a big difference.

MR. WREN: I am interested in that aspect of it myself. In other words, what I am primarily interested in is communism. I think it should be, but it is not as far as our laws in Canada are concerned, an illegal organization ---

MR. HAMILTON: Let me put it to you this way.

MR. WREN: What I am interested in knowing is how do you determine? In other words, what proof is required before your convention that a man or an organization is a communist sympathizer -- how do you establish that?

MR.HAMILTON: Mr. Archer has had experience in establishing it and I suppose he could answer it for you.

MR. ARCHER: I am not trying to tell you how you do or do not do it; I am just telling you how the mine, mill and smelter workers were separated from the Canadian Congress of Labour, and I am not going to say anything about the merits or demerits of it because that has been a long series of arguments.

At the Canadian Congress of Labour Convention are delegates from other unions in Canada. There were seven hundred of them and one of the orders of business was the expulsion of the United Electrical Workers and the Mine, Mill and Smelter Workers because of their alleged communist leadership and continual following of what we call the party line. The administrative congress executives who recommended to the Convention that these people be expelled took so long on the floor and brought forth their proof and their evidence and their allegations and so on. The United Electrical Workers chose a spokesman, the Mine, Mill and Smelter Workers chose a spokesman and they put forward their defence, and the thing was put to the vote of the Convention and it was overwhelmingly decided that the case had been established and these people were expelled. That was the method and machinery that was used to expel these people from the Congress. They will still deny that they were communist controlled and the other side will still say they were.

MR. WREN: In the course of that debate, as you recollect it -- I am not trying to put you on the spot ---

MR. ARCHER: No, you cannot put me on the spot.

MR. WREN: In the course of the debate do you recall any person, any responsible person, in

the organization submitting evidence to the Convention that there was any indication that the influence of, shall we call him, a superior officer, was infiltrating down to the local unions themselves?

MR. ARCHER: Well, Walter Ruther in the States put it this way: When a person acts like a duck, walks with a duck and associates with other ducks, the chances are he is a duck. There was evidence put forward of where these unions had continually followed the party line, had done the necessary zigzagging and somersaulting, had followed the line continuously, and these unions always come out on that side.

There was also evidence from senatorial -- I had to use that word -- senatorial inquiries in the United States and other evidence -- the magazines and periodicals of both unions were put in evidence. It was denied by the United Electrical Workers and the Mine, Mill and Smelter Workers and on the basis of both presentations the CLC decided the evidence was sufficient to satisfy them that they should be expelled from the Congress.

MR. WREN: The concern in my question is this, and I want to make it clear. What I am getting at is, despite the fact that a union group may expel or otherwise discipline a union, a particular union or individual for his activities in communism -- I am not arguing that at all --

despite that fact it is my understanding that a union with a collective bargaining agreement, whether or not they are expelled, still hold that contract with the employer group and nothing in our laws or the Dominion laws would affect their status, whether expelled from the union wing or not.

MR. HAMILTON: That is right.

MR. WREN: Now, where does that leave these individual employees in a true labour sense?

MR. HAMILTON: Well, it leaves them with their leadership and their union as being condemned by the legitimate trade union movement as following the party line and as being communist controlled, and leaves them with the opportunity to leave it and go into a proper legitimate trade union.

MR. WREN: I appreciate your answer to that. Now my final question is: Is there anything in your administrative machinery that would enable you to expel, rather than a whole union, shall we say, those particular persons who are responsible for these activities?

MR. HAMILTON: I doubt it very much, but I can be corrected by anyone here. The Congress itself is an affiliate of trade union organizations, not of individuals, and individuals must be dealt with by their international or local organizations. The Congress must deal with organizations as such.

The people who affiliate with the Canadian Labour Congress are the United Automobile Workers, not George Burt, and if we want to get rid of George Burt we have to expel the Automobile Workers and the Automobile Workers themselves would look after George Burt.

MR. WREN: For instance, if you knew that Mr. Black -- to take a hypothetical name -- was a confirmed communist, a card-carrying communist, shall we say, all you can do then is to see that the union to which he belongs gets rid of him; you could not get rid of Mr. Black?

MR. HAMILTON: No.

MR. REAUME: Following on that, if you had a man, a member who was in the OFL and one whom you suspected of walking like a duck and hanging around with a bunch of ducks, what would you do with him as an individual?

MR. HAMILTON: Our group would not do anything unless the organization itself became dominated by communist philosophy contrary to our constitution, and then we would warn that organization that they had to clean up by whatever methods they liked, either by converting a fellow to democracy or by getting rid of him and replacing him by somebody else. If they failed to do that it would be a matter of the Convention taking whatever acting was necessary to deal with the situation.

MR. WREN: Suppose we take the

hypothetical case of an individual union member who in discussions at meetings of the union local would interject communist theory into his thinking and speaking, would that union be required in any way to discipline that union member?

MR. HAMILTON: Well, that would depend on the constitution of the particular union to which he belonged. There are some unions that prohibit membership to communists, fascists and other totalitarians; other unions do not. You would have to ask that of the individual union as it appeared, what their constitution is in that respect. We have no supervisory or disciplinary powers over individual union members; we only have disciplinary power over unions as a whole. What any particular union did in a particular case would be in accordance with their bylaws or constitution.

MR. WREN: If you had one bad duck the whole flock is damp?

MR. HAMILTON: It would not bother me any.

MR. REAUME: I was thinking of one point -- I think it is important -- as to whether or not at any time there is sort of a talking argument or a smear going on with respect to certain groups of people who are in the unions, something comparable, for instance, to what you had in the

States -- McCarthy, for instance. If you did not agree with him you necessarily were a Red.

MR. HAMILTON: Well, I think that is a matter of procedure, and I hold no brief for the procedures that were used or are being used, for that matter, in the senatorial inquiries of the United States. I do not think our procedures in Canada are based on the procedures that are used by parliamentary committees such as your own, and the Convention makes a decision and I do not think those procedures lend themselves to smearing or guilt-by-association, or any of those things. We try to be particularly careful that they would not, and I think when you get to guilt-by-association and smearing, a lot of that depends on the procedures that are allowed to be used. For instance, I do not think your Chairman for a minute would allow you to use some of the procedures that have been used in the senatorial inquiries in the United States. In fact, I saw him in action once, and I am sure he would not.

THE CHAIRMAN: Thank you.

MR. HAMILTON: I think that is what accounts. Our procedures have been set up to protect ourselves against that sort of thing as much as anyone can protect.

MR. WREN: Do you know of any definition that the trade union movement generally applies

to communism? Is there any yardstick to determine what a communist is, if you are going to discipline a union or person?

MR. HAMILTON: Only to the extent that the Convention in its own mind determines what is detrimental to the best interests of the trade union movements. That not only applies to communism but to anything -- to racketeering or anything else. You put the case before the Convention. The Convention are what the lawyers call reasonable men and they are reasonably convinced that they are acting detrimental to the trade union movement and the best way to cure that is to expel them. They expel them or they may suspend them and give them a certain amount of time to do certain things.

THE CHAIRMAN: I just want to direct your attention to the fact that this Committee has been established to examine into and report regarding the operation and administration of the Labour Relations Act. Now, I realize that these questions put to these gentlemen have been answered and the answers have been very elightening, but strictly we are not adhering to the powers that have been delegated to us.

MR. WREN: Some of these things are very important.

THE CHAIRMAN: I appreciate that, but I

do not propose that the entire time of this Committee be taken up by inquiring into what you have to do to be expelled from the Ontario Federation of Labour.

Now, is there anything else that arises from page 1 or the top of page 2? If not, then we will proceed to page 3, the general principles.

MR. MacDONALD: Following up Mr.Reaume's comment about the desirability of having a preamble in the Act setting forth the sort of principle or purposes of the legislation, the OFL has separated it very succinctly what they believe to be its purpose in part 1, and I think implicit in this is something that is rather comic rather than a clause implied in it, I think, to which this Committee should give some thought, and that is anything that results in the termination of collective bargaining procedures is not good because the purpose of the Act is to establish collective bargaining procedures and make them effective. Therefore, anything that comes up -- for instance, the decertification of a union, to give an example -- if you come up with that you cannot have collective bargaining procedures. Therefore, I think it is the function of this Committee to examine if there is an alternative to avoid the decertification of the union. My question -- if I am putting a question -- is this: Is this statement of the purposes of the legislation

an acceptable one?

THE CHAIRMAN: That is the statement of the Ontario Federation of Labour with which we do not necessarily agree, but it is very interesting to realize that the Federation feels that that is the purpose of the present legislation.

MR. MacDONALD: My point was merely this, if members of the Committee do not agree with this statement of the purposes of the legislation I think it would be interesting to hear that disagreement now when those who advanced that purpose are here to present their case and document it.

THE CHAIRMAN: I can appreciate what you are trying to do, Mr. MacDonald, but I think the proper time to consider that would be when we are in a committee getting ready to prepare our report and not here.

MR. HAMILTON: May I just elaborate a moment on this. I think this is what we have; we think there should be a preamble to the Act and our submission is, or our argument I think is that this is what we think the preamble, but regardless it may be possible that this committee or the legislature itself might disagree with this particular preamble. I think what we say is that whatever the Legislature does indicate is a proper preamble that a preamble should go into the Act so that

everyone knows what the Legislature meant when they passed the Act. This may not be in agreement with us or it may be, I do not know, but they should put the intent of the legislation in, because there are many, many people who deal with the Act day in and day out and they do not know what the Act was designed for. We think this is important: whatever the Legislature decides, the preamble should be included in the Act.

MR. ROWNTREE: Dealing with this point, these assumptions:

> "(a) The rights and interests
> "of employees are best represented
> "through trade unions of their own
> "choice ---"

Now, we have had some evidence before us of the sheet metal workers who have their own union and of another union, the steelworkers, and the men had chosen the steelworkers and were going along quite happily and they were on a building, and I need not tell you what the history of that case is, but the men had chosen the union they wanted to belong to and their employer had signed an agreement with them and they were interfered with by another union. Now, we are trying to develop something. We are all here with a common purpose to try and move this subject along. It was pointed out that this jurisdictional problem was one of your great problems. Now, on

your basis, this preamble as set out in (a), if that had existed or been brought to the attention of the sheet metal workers then we assume they would have understood that on your basis the employers were best represented by a union of their own choice and the sheet metal workers would then have withdrawn; is that correct?

MR. HAMILTON: Well, I have to take the position on this particular affair, the Ontario Federation of Labour do not enter into or deal with jurisdictional disputes. That is not our function.

MR. ROWNTREE: What is the function, then?

MR. HAMILTON: The function is to represent the Canadian Labour Congress affiliates in the Province of Ontario on legislative matters.

MR. REAUME: Well, that seems rather strange. In the States ---

MR. HAMILTON: It may seem rather strange but it is true.

MR. REAUME: Probably it is, but again I say it is rather strange. In the States one of the main fuctions, as I understand it, the joining together of the AF of L and the CIO was to deal specifically in some sensible way to do away with, if they could, this business of jurisdictional disputes. Now, you have said you are an arm of the main body and the main body is equally concerned

with that problem and I think they are going to work towards the end of trying to bring about the same answer to this business of disputes that occur between one union and the other. I thought probably that was handed down to you.

MR. HAMILTON: No, it is not.

MR. WREN: That is one of the subjects---

MR. HAMILTON: There are two types of jurisdictional disputes, as you are aware, after the explanation that the Building Trades people gave the other day. There are two types and one is in organizing and setting out the proper jurisdiction of the unions to organize. Now, there is a committee on the United States level who deal with all national jurisdictions and to that degree it is not sent to your jurisdiction because they are established nationally and we do not have to go into that type of argument. The other type of jurisdiction is the jurisdiction on the job, of job content, and that is pretty well an argument as between two individual organizations and we do not enter into jurisdictional arguments on jobs as between two organizations. It is not our function. The other thing that is dealt with on the national level is organization-wise, and they try to establish clear-cut lines on who will organize and when, and there is a committee on the

communist level who does that kind of work.

MR. ROWNTREE: Are they going to appear before us?

MR. HAMILTON: No, they will not appear before you because they are a national order and would not come into the legislative field in the Province of Ontario.

MR. ROWNTREE: Even if the jurisdictional problems existed inOntario?

MR. HAMILTON: The jurisdictional problems exist in Ontario but it is worked out on a national basis so there is not a different kind of jurisdiction in Quebec and in Alberta from Ontario, but they try to lay down jurisdictional laws for organizational purposes, so it is the same nationally.

MR. REAUME: How are we as a group of people, working people, going to ever handle problems such as occurred here a while ago? A certain man building a building installs the elevator in the building to go up to the ninth floor. One union says, "Well, now, we have the control of the freight going up in the elevator" and the other union says, "We have the control of the passengers." Now, there is only one and so a dispute starts as to who is going to ride in the elevator, whether the freight is going to go or the passengers are going to go, and finally the whole thing does not go and the men walk out. That type of thing is something

that we eventually in this group of people are going to have to deal with and how are we going to deal with it if we do not have the help of the unions?

MR. HAMILTON: I am not suggesting you are not going to have the help of the unions; I am suggesting to you there are unions involved and I think you have already had the Building Trades people here and they have presented a brief. Now, these people would be qualified to give you an answer about how they deal and how they may better deal with jurisdictional disputes as they apply on the job. Those people will be able to answer your questions in that regard. The very nature of our organization makes it so that we cannot get involved in jurisdictional disputes because they would just tear us apart.

MR. MacDONALD: What would be the reaction of the Ontario Federation of Labour to the proposition of having in Canada, or in Ontario, rather, something comparable to the American legislation where the onus for settling jurisdictional disputes is voluntarily left with the unions but if they do not settle it by resolution the Government is empowered, or whatever body the Government chooses to designate --

MR. HAMILTON: It may very well be the Canadian Congress, as you know, have agreed to abide by the jurisdictional setup in Washington, under the construction trades people in Washington. I am not speaking for the building trades people but it may

very well be they would be agreeable to transferring something of that nature into this particular area, whether it be on a national or provincial basis, to deal with this problem here. But, I think there again, the building trades would be glad to supply you with their information and reaction to that sort of thing. If the building trades want it we would not have any objection to it at all.

MR. JACKSON: What does the Ontario Federation of Labour feel about it?

MR. HAMILTON: We would not have any objection if the building trades people agreed to it.

MR. MacDONALD: You would consider this almost exclusively a problem of the building trades?

MR. REAUME: Oh, no.

MR. HAMILTON: I do not think it is exclusively building trades but it is a conflict, I would say, as between the industrial and the crafts and the crafts do not necessarily -- are not all building trades people. They have engineers. I know they have draftsmen, and I can think of some other people who are not exclusively -- I think it is a safe statement to make that it is a conflict as between the unions and the jurisdiction where they have marginal problems.

MR. MacDONALD: I have heard it argued that it would be difficult, if not impossible, to establish a Canadian jurisdictional committee because

it might result in decisions which would be in conflict with American decisions and because most of these, in fact all of them, I think, are international unions trying to work more or less according to the same rules, you get these inconsistent positions. Is that/in your opinion or the opinion of the Ontario Federation of Labour an insupportable obstacle a possibility of conflict with the United States?

MR. HAMILTON: It is not impossible but I think it would raise some problems in this area. I would just like to say this about jurisdictional disputes that people from the employer's standpoint, people from the building and construction trades, and unions in all walks of life, have been dealing with this problem for years and years and years, and if the people on this Committee can come up with an answer to it you will get the blessing of everyone in the Province of Ontario. I am sure our people will give you all the help they can because it is a problem for us as well, and if there were a simple solution to it it would have been found years ago.

MR. JACKSON: Page 3, you deal briefly with the question of striking, and I wanted to ask you a couple of questions. The first question is, have you any disciplinary action, does the Ontario Federation of Labour have any disciplinary action over an illegal strike?

MR. HAMILTON: Over an illegal strike?

MR. JACKSON: Yes.

MR. HAMILTON: No, none.

MR. JACKSON: Have you any disciplinary action over, shall we say, unlawful conduct while striking?

MR. HAMILTON: No.

MR. JACKSON: Does a union?

MR. HAMILTON: No.

MR. JACKSON: Belonging to you?

MR. HAMILTON: No, only to the degree that if this becomes habitual and it becomes an organization that is undesirable it could very well be that an accumulation of these things would make this organization so undesirable that we would then expel them from our organization.

MR. JACKSON: Well, then, you have disciplinary action?

MR. HAMILTON: We have the right to expel or take into our organization whoever we want to take.

MR. MacDONALD: Just one brief question, Mr. Chairman. I do not intend to go off on a tangent again, but is it constitutionally possible for the Af of L to expel anaffiliate without proper action having been taken by the Canadian Labour Congress?

MR. HAMILTON: I would say yes, but it would be highly unlikely. I think what would likely

happen would be all the facts and everything else would be put on the doorstep of the Canadian Labour Congress and they would be expelled from the Canadian Labour Congress, which would take care of the whole national picture. It would not be a practical thing to expel an organization from the provincial body and find them in other provincial bodies. What we would like to do is take all the information at our disposal, take it to the Congress level, and they would make the decision and the expulsion would be made at the national level. Then automatically they are expelled from the Federation.

THE CHAIRMAN: That could not be done until the next Convention?

MR. HAMILTON: No, it will be done between conventions. We have an example now. We expelled an organization before the Convention on the advice of the National Council to suspend them.

MR. ROWNTREE: Is that the operating engineers?

MR. HAMILTON: Yes, and they now have the right to bring all their evidence before the Convention and bring their case before the Convention and they will either suspend the organization or the executive.

MR. ROWNTREE: You apparently have the same delays that the Labour Relations Board have?

MR. HAMILTON: Democracy moves exceedingly slow.

THE CHAIRMAN: There is no way you can hurry it up?

MR. HAMILTON: Hitler and Franco and some of those people have tried without too much success.

MR. ROWNTREE: I have a question to ask you: We read a lot these days, and cannot help but be influenced from by what we hear from other countries about a code of ethics. Is there any code of ethics in Canada which has been defined and set forth which you have adopted?

MR. HAMILTON: Only under our constitution.

MR. ROWNTREE: I understand that, but that is not the one I am referring to.

MR. HAMILTON: If you are talking about a strict code of ethics as set up by the committee in Washington, we have no specific document.

MR. ROWNTREE: Do you adhere to these ethics that they have or do you approve of them?

MR. HAMILTON: Well, I have not got a copy of the exact wording of them but I would say this, that the principles expounded in that kind of thing we certainly adhere to and practice here.

MR. ROWNTREE: And if you found one of your members violating those principles what would you do about it?

MR. HAMILTON: Well, as Mr. Archer said, what we would specifically have to do would be to deal with it at the local level. In other words, if it was an affiliate of ours it would have to be dealt with at the local level, the decision would have to be made by them as to what they would do with the person.

MR. ROWNTREE: This brings us back to what I think is a rather important point. Suppose that the principles that we are talking about have been violated, they are going to be violated by the individual leaders or officers, and the man that I am concerned -- at least that I am concerned with -- is a member of the committee, is a man who is working, the man who belongs to the union. He might find himself, through no fault of his own, in a union that has been suspended or expelled, and then Mr. Archer said the remedy lay with him to resign and so on, but, as you know, that is not a practical possibility.

MR. HAMILTON: Let me use an example for you, and with all due respect to the people sitting at the table here. Through our democratic processes we get some undesirable people elected to Parliament. That is part of our democratic procedure. The democratic procedure in the trade unions is that the organization at the local level have to -- through their elections and what have

you -- bring charges or see that these people are not elected to office.

MR. ROWNTREE: I do not think your comparison is entirely apt because they may elect a bad member, but just because one area has a bad member of parliament does not mean that the school grant can be cut off from an area.

MR. HAMILTON: No, but just because you have one ---

MR. MacDONALD: That may be debatable.

MR. HAMILTON: Just because you have one bad union member, or just because you have one bad egg in the union leadership, does not necessarily change the policies of that organization in application because he only has one vote, whether at the executive level or the local union level, and one bad person -- the same as in the illustration of government -- does not mean that is a bad functioning unit.

MR. ROWNTREE: Let us take the operating engineers. They got expelled or suspended from your body because of a policy that I understand was raiding.

MR. HAMILTON: That is the broad accusation.

MR. ROWNTREE: And that policy is determined by the executives, not by the members; it is the executive, and yet all the members of the

operating engineers union are in a group that is suspended, and yet those members, I doubt very much -- can you tell me if the members were responsible for the policy?

MR. HAMILTON: I can only say this, the executive body are responsible for the policy, the members are responsible for the executive body: if that is the kind of board they want they have it.

MR. WREN: How do you justify what you said with, for instance, the famous Tunney case in Winnipeg where this member of a union local did not like what was going on in the administration of his local so he protested through the only means he had, he got up at a meeting and said he did not like what was being done and he thought the secretary-treasurer was using the funds, etc. The international office of the union promptly lifted his card and told him he had talked out of turn and revoked his membership in the union -- "You can no longer stay, you have lost your card, now go home and be a good boy because we have fired you." That man had to go to the Supreme Court of Canada and it took five years to establish his rights in the local.

MR. HAMILTON: Mr. Archer says the answer is the whole local had gone over to another organization.

MR. ARCHER: They just got rid of that organization and got a clean organization.

THE CHAIRMAN: That is hardly the answer to the question.

MR. WREN: What we are getting at ---

MR. HAMILTON: I suggest this to you, is it any different in the trade union movement than anywhere else in our society? What I mean, there are certain customs that follow through and conform within society.

MR. WREN: Yes, but ---

MR. HAMILTON: If you become a non-conformist in society do you not get the same kind of treatment? I am not condoning it but ---

MR. WREN: Using your wording, you get one bad member of parliament, using that wording, just as quickly as the Prime Minister of a province or a country, whichever the case may be, calls an election, the electorate has full opportunity to displace that person. They have the full right to the secret ballot, and if they do not like him they get rid of him.

MR. HAMILTON: The same thing applies in trade unions.

MR. WREN: Yes, but in this case I am talking about the man who protests to the annual meeting. He was desperate and so he was paralysed. What I am concerned about is this, and I think Mr. Rowntree is too, we are not critizing your union structure -- what we are interested in is finding

out howcan the individual trade union member within your framework of organization be protected? How can his rights be protected, his individual rights?

MR. HAMILTON: I have to come back to the broad argument that his individual rights are as well protected in the trade union movement as any place else in our society.

MR. WREN: I can give you many examples where that is just not so.

MR. HAMILTON: You may disagree with me, but ---

MR. WREN: For instance, I had some railway people come to see me about three or four weeks, and if you want me to be specific, one of the local chairman in the area in which I live and over which that union had jurisdiction,had to put an ad in the paper inquiring as to the names and addresses of other local chairmen so they could have a meeting. They wanted to discuss the union affairs and the officials from Montreal severely reprimanded the man for doing so. These men had not had a meeting not for months, but for years. Those men, the maintenance employees of the railways, are the most discriminated against employees in the trade union movement. The wages of those men are disgraceful, and yet the men, the individual working men,in those unions have not the means at their disposal at the present time to enforce

their demands because their officials refuse to act, and no one in the affiliation group of trade unions seems to have the authority to make these men do something. The only recourse these men have, I am told by competent legal counsel, the only recourse these individual members now have is to go to the courts to secure an injunction, or whatever you might call it, to force these union officials. Now, is there not something wrong there?

MR. HAMILTON: There may be something wrong. I do not know. I have not all the facts at my disposal, so I do not know.

MR. REAUME: I was going to say that inasmuch as the Act applies to all of us, all of the unions -- I was getting back for a second to the operating people, the engineers that were expelled or suspended, and the reason given was because they were raiding. Now, that really covers a large bit of ground. Is there any organization within the framework of the AF of L that has not at one time or another been guilty of that? I mean, is this just something new? I thought they had expanded? I know some of the officials and I have always thought they were a pretty fairminded bunch of people, and I am just wondering whether they were not overly anxious to organize rather than raiding. Now,

are they the only people within this framework who are guilty of that grievous offence of raiding?

MR. HAMILTON: I think, with all due respect, you over-simplify the thing. I think it is an over-simplification of the facts that are here. I have not all of the data available relative to the arguments of the operating engineers, but they had many long talks and long conferences at the Congress level. They were expelled at the Congress level, and left in the Federation and Trades Council to work -- given a considerable time to work out an agreement, and they were given every opportunity to conform with the rules and regulations laid down by the Congress. Now, somebody had seen fit to ignore and violate the rules and regulations that the Congress had laid down, and they were expelled. They will have a further chance to air their views at the coming Convention next spring. To say that no one else participates in raiding is another, I think, over-simplification of the actual operation in the trade unions.

MR. REAUME: I did not say that.

MR. HAMILTON: Because there are many areas where there is a line of conflict between many unions and they have to sit down day in and day out and figure out problems of where their jurisdiction lies, but they do that in conformity with the policies of the Congress and do not get

themselves into trouble as a result of it.

MR. REAUME: You see, it would make our job very much easier if they were all in one union. That is the point, and I think that is the thing you are hoping for, is it not, some day?

MR. HAMILTON: Yes.

THE CHAIRMAN: Gentlemen, shall we move on to Recognition and Certification on page 5?

MR. REAUME: On page 5, is there any reason why only the majority vote would not be sufficient? Why do you say 55 instead of 51? Is there any reason for that?

MR. JACKSON: Fifty-five is in the Act.

MR. REAUME: Well, is there any reason why it should be 55? Is there some special reason for putting that in there?

MR. FINKELMAN: Under the 1944 and 1948 legislation the number was 50 per cent plus a simply majority of all those who voted. When the 1950 legislation was drawn up the procedure was changed somewhat and the vote was established in the area between 45 and 55 per cent;where the membership was close to 50 per cent and it was felt there might be an element of doubt involved the unions were given the right to have a vote. Where there were 50 per cent it was not possible under the earlier legislation, but they also had to submit to a vote between 50 per cent and 55 per

cent. That was mandatory under Section 75 of the Act.

MR. WREN: Could you tell me this, in certification procedure -- this is purely a question of administration, it is not policy -- where a union files an application and they have the required percentage who have signed forms and have put up a deposit and gone through all the regular procedures, and then you encounter a petition from the same plant opposing his application, do you compare the names on the petition against the names which have been submitted and deposits paid before you make a decision?

MR. FINKELMAN: Yes.

MR. WREN: Are they designated in any way?

MR. FINKELMAN: They are not designated but ---

MR. WREN: What I am getting at there is, why would a man be permitted to file a formal application as a union member,as a bona fide union member, and then be permitted to file a petition three days later which would have the effect of opposition to the application?

MR. FINKELMAN: Because there is some evidence that he has changed his mind.

MR. WREN: Why would he not be required to go to the union and withdraw his application and be done with it? Why would a petition be circulated?

MR. FINKELMAN: I think it would be exactly

the same if we were to set up a requirement that he had to notify the union that he was resigning from the union. That would amount to exactly the same thing.

MR. REAUME: The point I do not think is quite clear, why the Board says 55 and the union says 40 -- why not 51?

MR. HAMILTON: It is two different things, but to get outright certification you have to have over 55, but to get a vote you have to have over 50, and between 50 and 55 we are simply saying you lower this -- I am sorry, 45.

MR. WREN: Just to get my mind clear on that, I know this will be raised later -- you are suggesting, Professor Finkelman, that if you get an application from John Doe, his signature attached to a formal union application and a dollar bill attached, and three days later you find his name on a petition opposing that application, you just assume he has changed his mind?

MR. FINKELMAN: We do not assume he has changed his mind, we assume he has changed his mind and that creates a state of doubt in our mind and we seek confirmatory evidence. Just to be clear on that may I make this point? Perhaps I should do this in terms of numbers. Let us assume there are 100 members in a bargaining unit. If the union goes in with 56 cards, with 56 member-

ship cards, plus money payment of $56 on behalf of 56 of the 100 persons in the bargaining unit, and if there is no opposition from other employees and there is no incumbent union -- taking this as a case of a first organization -- the union goes in with 56 employees out of the 100 in a bargaining unit, it will be certified automatically. Certified, that is, after a hearing. We refer to it as automatic. If it goes in with less than 56 -- that is between 45 and 55 members out of the 100 members in the bargaining unit there is a mandatory vote, and on that vote the union must obtain at least 51 votes to be certified. The persons who are not present during the time of the vote are removed from the eligibility list, but generally speaking 51 out of the 100 would be required for certification. Now, take the case that was mentioned today, the union goes in, let us say, with 75 cards out of 100, and let us say that there are 35 persons who have signed some sort of document indicating opposition to the application. Of these 35, let us say 25 are persons who have earlier already signed the union cards and 10 are persons who have signed no union cards. Obviously the 10 who have signed no union cards would not affect the result one way or the other. On the other hand, all the other 25 have already signed union cards. Now, the union then has 50 persons

who are clearly and unequivocably in favour of the union. That is less than 55 per cent. As to the other 25 there is a state of doubt, and in order to resolve that doubt, under the policies that the Board has followed for some years, there will be a vote directed.

THE CHAIRMAN: It is now one o'clock. Gentlemen, we will adjourn until two o'clock.

---The Committee adjourned at 1.00 p.m.

(Page 886 follows)

--- On resuming at 2 p.m.

THE CHAIRMAN: At the adjournment, gentlemen, Professor Finkelman was making a statement which I don't think he had finished. Is that so, Professor Finkelman?

PROFESSOR FINKELMAN: I would just like to add this further comment: Where what could be called the overlap -- that is the number of persons who sign the membership cards and the document in opposition -- is sufficient to lead evidence in favour of the union, we would normally rule a vote would be held.

There is another situation, however, which I should bring to the Committee's attention -- this is in modification of what I said this morning -- and that is where the petition was inspired by the employer -- by the management -- or is influenced by the management, the Board will take that into account in reaching its conclusions; and in some circumstances it may find the petition is not sufficient to offset the cards, so as to create a doubt in the minds of the Board, and where it comes to that conclusion there would be certification without a vote despite the fact that a petition has been filed.

THE CHAIRMAN: Is there anything further, gentlemen, under "Certification requirements"?

Representation votes, Section 30, subsection 3 of the Act. This is on page 5.

MR. WREN: There is one point there, Mr. Chairman: I have seen instances where votes have been taken on representation, and -- I don't know -- there is something wrong with this principle of if a man doesn't vote it is automatically a vote against the company, because it does have the effect that the management -- the employer -- knows immediately that person's opinion. It takes away the secrecy.

I think the contention here is to correct that. It takes away every element of secrecy.

Just why is that procedure laid down? Is there a good reason for it?

MR. MacDONALD: It is a matter of policy, Mr. Chairman.

THE CHAIRMAN: I don't know if it is a matter of policy; it is more a matter of practice.

MR. MacDONALD: I am glad to hear liberalized interpretation!

THE CHAIRMAN: Well, my goodness, there is something good in liberalism.

MR. REAUME: We haven't heard that for a long time!

THE CHAIRMAN: But, in any event, without any snide remarks, Mr. Wren has asked a question. Can somebody answer it?

MR. FINKELMAN: All I can say is that is provided for in the legislation.

MR. WREN: Would you say that it is so that the person not voting is clearly indicating that he voted in principle against the company?

MR. METZLER: If there are 25 or 30 who didn't vote, it could be established, I suppose, by reference to the list that those men did not vote.

MR. WREN: If we did that in the Provincial Legislature they would put us in jail.

MR. REAUME: How would they put you in jail?

THE CHAIRMAN: What is your thinking on this, Mr. Hamilton?

MR. HAMILTON: It is pretty clearly stated in our submission in writing, that the majority of those people that cast ballots are those people who should; and that is normal

democratic procedure as in any other areas.

MR. PUNNETT: There are some who wish to remain neutral and they don't want to join the majority. . .

MR. JACKSON: Has there ever been a case where, as a result of people having abstained, it affected the result of the vote?

MR. HAMILTON: By general hearsay I think there would be several such cases, but I haven't got the information here of specific cases.

MR. ARCHER: I can think of two offhand.

MR. JACKSON: Would you care to give me their names?

MR. ARCHER: I can give you McCormick's Biscuits as one, and there was one in the Renfrew area. Perhaps Professor Finkelman can remember it. There are all kinds of them.

MR. HAMILTON: I think if the Department want us to compile a list it would be pretty substantial.

MR. JACKSON: What I am trying to get at is are there many?

MR. FINKELMAN: I am not quite sure that I heard the question. Could the question

be repeated?

MR. JACKSON: I was asking if there were many instances where the fact that the people stayed away defeated the vote?

MR. FINKELMAN: There have been a lot of cases, but it would require a calculation of all the boards that have taken a note of who have refrained from voting. I don't think it would be possible to give an answer offhand.

We could try to get an analysis over a couple of years.

MR. JACKSON: I was trying to get at the seriousness of the recommendation. If it is a problem -- I am just trying to find out if there is a problem.

MR. HAMILTON: We have had complaints from many of our affiliates about that problem.

MR. MacDONALD: We know that it has been presented in every brief for years, so that is evidence of the fact that it is not of recent development.

MR. PUNNETT: In some of these cases the union has won the vote, but because of the people who didn't vote the union has to ...

MR. ARCHER: There was a vote in McCormick's Biscuits where we were nine votes

to the good -- we won the vote by nine votes -- but lost certification because of the people who didn't vote.

MR. FINKELMAN: We made an analysis about a year or so ago. I don't know if I am correct in every step in this, but I think in 272 votes taken over a period of some two years or 18 months the number of cases in which the result would have been different if we had taken the majority of votes cast rather than the majority of eligibles was three.

We can provide you with statistics on that at a later date.

THE CHAIRMAN: But as Mr. Punnett said, it could happen that, by reason of the abstaining votes against the union, the will of the majority of the union could be defeated.

MR. REAUME: What is the reason for a person not voting?

MR. HAMILTON: The real problem is that you get into the position where the employer carries on a compaign of intimidation, and the people abstain from voting because of that campaign of intimidation. In other words, if an employer wants to carry on that kind of campaign then they would abstain from voting, because they don't want to be identified with the people who vote.

MR. REAUME: But if the employer and the employee were all of them involved -- if they knew that you only had to have the simple majority of 51 per cent in order to win, wouldn't that make the people who were for or against come out and vote?

MR. HAMILTON: Yes, sure.

MR. WREN: It would be a desirable situation.

MR. REAUME: I think that would be the answer.

MR. YAREMKO: Was that the case in McCormick's Biscuits, can you remember? Offhand, what was the vote there, again?

MR. ARCHER: There were 500 people in the union and I would imagine 400 odd -- and the vote was nine to the good, but we were one vote short of having an overall majority.

THE CHAIRMAN: Because of abstentions?

MR. ARCHER: Because of abstentions. We brought it in front of a board at that time. We even brought three fellows down who had been off that day -- either because it was their day off or for some other reason -- and, in fact, our union secretary-treasurer was in hospital with influenza -- and we brought them to the Board to say that they would have

voted in favour of the union, and the Board -- rightfully I think -- refused that kind of evidence.

MR. REAUME: If the same principle were followed in the province of Ontario, the good people in power wouldn't be approved of.

THE CHAIRMAN: Oh, well, that is wishful thinking, Mr. Reaume!

MR. REAUME: But it is true; that is so.

THE CHAIRMAN: Well, I think we understand the point that this part of your brief is putting to us.

MR. YAREMKO: To make it clear in my own mind: There is nothing to prevent a union from canvassing all the employees to prevail upon them to vote, and to vote in favour of the union?

MR. HAMILTON: But our canvassing efforts might be weak compared with the canvassing efforts used by the employer.

MR. PUNNETT: If somebody were to stick their neck out in circumstances like that, we would to all intents and purposes, be fired.

THE CHAIRMAN: You can't canvass during your work, while the men are at work?

MR. PUNNETT: If you did it in an open campaign, you would be no longer working for that firm.

MR. HAMILTON: We have the right to canvass the workers.

MR. PUNNETT: But not during the time of work.

MR. REAUME: Off the property of the company.

MR. ROWNTREE: Aren't these votes carried out -- I thought we had it in evidence from a brief that these votes were carefully organized? This is in direct opposition to what Professor Finkelman, I think, spoke of last week.

THE CHAIRMAN: No, it is not the same principle at all.

MR. ROWNTREE: This witness said that the reason the men abstain from voting is because of the fact that if they had voted they would be fired. It is one way or the other. I don't follow that.

MR. HAMILTON: Whether they are abstaining from voting the employer knows they are abstaining from voting.

MR. YAREMKO: But in the McCormick case, of the 400 that voted he wouldn't know

which 200 had voted for and which 200 had voted against.

MR. ARCHER: I could give you an example of a plant where, for instance, the employer calls in an employee and says: "We have always been good friends. We are one big happy family. My office door is always open for you. I have been watching you for a number of years, and I think there is a position in the office that I could open for you. But you can't serve two masters. You must either serve the union or the company. You can't be the servant of two masters." His approach to which master he is serving is very simple. He is absent, and then his vote is against the union, and the company then knows that they have a "loyal" employee.

MR. YAREMKO: Would the employee's attitude be different at all if you had a vote in which his bosses are voting?

MR. HAMILTON: It would depend on the employer.

MR. REAUME: When an actual vote is taken isn't it a fact that the union has a person there, if they want to, to watch the vote?

MR. HAMILTON: Yes; a scrutineer.

MR. REAUME: Yes; and the employer -- the company -- can, too?

MR. HAMILTON: But the abstentions are the property of the scrutineer of the company.

MR. REAUME: Yes.

MR. HAMILTON: He would know who the abstentions were.

MR. WREN: It is not a quarrell with procedure.

MR. REAUME: I understand.

THE CHAIRMAN: The next article on this brief is "Objections to Certification (Rules of the Board, No. 4)(a))".

MR. JACKSON: Would you have any objection if this alternative of yours was organized by management?

MR. HAMILTON: I beg your pardon?

MR. JACKSON: Would you have any objection if your alternative was organized by management?

MR. HAMILTON: I don't follow you.

MR. JACKSON: You know your alternative?

MR. HAMILTON: Yes.

MR. JACKSON: Where you have a

group paying a sum of money...?

MR. HAMILTON: That is right.

MR. JACKSON: How would you propose that it be organized? I am asking you if you have any objection to this group being organized by management?

THE CHAIRMAN: I think he would.

MR. ARCHER: Yes, I would think so. It would be prohibitive.

MR. JACKSON: How would you foresee these people becoming organized to oppose?

MR. HAMILTON: If they feel strongly enough against the union to organize this opposition to the union.

THE CHAIRMAN: But what you say, in effect, is that they shouldn't be allowed to do that unless they deposit a sum of money equal to the number of members they have as compared with numbers who have paid their dollar in the union?

MR. HAMILTON: Yes.

MR. JACKSON: I am not criticizing this proposal. I am merely trying to find out what objection you would have to them being organized, let us say, by management, or, let us say, by one of their own group. You would have no objection to one of their own group organizing them?

MR. ARCHER: No; that is the way it should be. Management isn't allowed to interfere in the administration of a trade union.

MR. HAMILTON: I would like just briefly to elaborate on that.

I think this isone of the matters which are of most concern to people in the organizational field at the present time. When you go into a plant you get a card signed and when you get the card signed you get a dollar from each of the individuals involved; then you have to have a signed receipt whereby the person who collects the money signs a receipt and the person who pays the money had to sign a receipt. This is a procedure which, in itself, I am not quarrelling with too much, but it is a procedure you find nowhere else, whereby if you give a receipt to a person, the person who gets the receipt has to countersign the receipt. It is a pretty air-tight position, and I am not quarrelling too much with that, but the very minute you start to organize the plant, then the management gets someone in the plant, or gets a sub-foreman, or lead hand, and they undertake to put a petition around the plant and get all the people to sign these petitions. Then you find

these people appearing in front of the Ontario Labour Board with some of the high-priced legal help we have -- in this province of Ontario some of the highest, as a matter of fact -- and you try to find out who is paying for the legal help, and in front of the Board that kind of questioning, of course, is not allowed.

THE CHAIRMAN: I don't think it should be allowed.

MR. HAMILTON: That may be true; but there is no doubt at that back of anybody's mind that these petitions are concocted by the management and forced by the management and they are developing their protection by high-priced legal help.

All we are saying is that if we are going to have bars and restrictions on trade unions in the field of organization then we should have the same kind of restrictions on people who want to come to contest that sort of thing.

THE CHAIRMAN: If what you say is so, isn't there a remedy under the Unfair Practices Provision of this Act?

MR. HAMILTON: I beg your pardon?

THE CHAIRMAN: If what you say is so, isn't your remedy under the Unfair Practices

section of the Labour Relations Act?

MR. HAMILTON: It is, partly; but it is a most difficult proposition to get evidence on.

THE CHAIRMAN: So the statement you are making can't be substantiated by evidence? Is that it?

MR. HAMILTON: That may be true.

MR. MacDONALD: Let us not becloud the general principle which is, mainly, that the organizational efforts to frustrate ..

the establishment of a union should surely be girt around with just as many stipulations under the Act as the organizational effort to establish a union; otherwise, there is a benefit to those who want to block the organization.

MR. YAREMKO: Mr. Hamilton, in organizing a plant,or a union, or employees, is it not so that the assistance of someone outside the plant is called in to assist in organizing the employees within that plant to form a union? That is common procedure, is it not?

MR. HAMILTON: It is true.

3 MR. YAREMKO: Wouldn't we have a bit of care if some groups that were anti-union organized themselves as a group to go into

plants and try to organize the employees to be anti-union?

MR. HAMILTON: Well, I suggest that that is going on every day in the week.

MR. YAREMKO: In that way, an outside group is coming in to assist in organizing an anti-union group.

MR. HAMILTON: That is true.

MR. JACKSON: Is there any proof of that?

MR. HAMILTON: As I said a moment ago it is difficult to prove, but there are certain people who make a specialty of that kind of work, and appear in front of the Ontario Labour Board in support of round robin positions which may include two, three, four, or five people; and we have no proof of where they were hired or how they were hired, there are professional people who do that kind of work. It goes on every day in the week.

MR. YAREMKO: Going from plant to plant throughout the year organizing anti-union activities?

MR. HAMILTON: They don't do it just as bluntly as that, but there are lawyers who defend the position of people who do that kind of organizational work in opposition to unions in many, many areas.

THE CHAIRMAN: Do you have any high-priced men who advise you as to what you should and should not do, from a legal point of view?

MR. HAMILTON: Yes, certainly.

THE CHAIRMAN: Of course you have.

MR. ROWNTREE: On the question of these groups appearing before the Board, are you suggesting that a group shouldn't have the right to appear before the Board? Do you want conditions imposed on them?

MR. HAMILTON: We have no quarrel if they appear before the Board in a free and voluntary way and say they are honestly there opposing a union; but what we have got a quarrel with is where you have an employer who deals in intimidation and coercion and he gets their assistance in fostering anti-organizational things, and they end up in a round robin petition.

MR. ROWNTREE: Have you any evidence in support of the view that these applications before the Labour Board influenced the Board, or prejudiced the union's effort to be certified?

MR. HAMILTON: They give some weight to them -- various degrees of weight -- depending upon the evidence that is supplied in support of them.

MR. ROWNTREE: Suppose, for the sake of argument, we take an unfair practice by the company. Would you agree with me that we ought to tighten up on these unfair practices and have speedy relief to stop them if an employer is engaged in them?

MR. HAMILTON: Yes; that is what we say in our submission.

MR. ROWNTREE: And, by the same token, would you agree with a spelling out, or definition of unfair practices by labour groups and methods of speedily dealing with them, too? In other words, by them both -- if they are wrong and commit an offence we should deal with them both? And I base that on your remarks this morning, that the disciplinary powers of the Ontario Federation of Labour do not go to protect the rights of the individual, do they?

MR. HAMILTON: They go to the protection of the organization as an organization.

MR. ROWNTREE: Yes.

THE CHAIRMAN: Termination of bargaining rights (Section 41 to 44)?

MR. WREN: I have one question there, on the last sentence in the second paragraph: "We suggest therefore that the

decertification procedures be removed from the Act, with the possible exception of Section 42 which deals with "Fraud".

Just how could we maintain freedom of organization of unions if we take the decertification away, because there must be instances where the only way in which you can have a union, or organize a better union with certification, would be, first, through decertification.

MR. HAMILTON: That isn't true.

MR. WREN: It is not so?

MR. HAMILTON: No; because when you have a bargaining unit, and if the agreement has run for a period of ten months, then any other organization can make application for those employees if they are dissatisfied.

MR. WREN: You are dealing there [illegible] months; is that right?

MR. HAMILTON: No. What happens now is that they make an application to have the union removed out of the plant completely and completely decertify them and leave them with a vacuum there. That is complete decertification. With complete decertification it doesn't follow that another organization had to come into a plant. But under the Act

at present another organization can organize and come in after the 10-month period has elapsed.

THE CHAIRMAN: Is there anything else on that topic, gentlemen?

MR. WREN: I am not clear on that. You are suggesting, then, that the certification procedure is being removed. To take a hypothetical case, where the employee did sincerely desire to decertify a union, you would suggest that they should not be allowed to do that?

MR. HAMILTON: Yes, that is true. It can go by default. In other words, if an agreement is not properly policed, or the employees don't attend the meetings, the employer has got a weak and defective union and a weak and defective agreement. If that is what the employees want, they can have it at any time. That is the same effect as having no organization at all. If they want a better and more effective organization and change in affiliation they can do that at any time, too, after the agreement has run for ten months.

I might say that this is not in the Act. It was not in the Federal Act and the province of Ontario until, I think it was,

1948 -- when this decertification came into being; this was put into the Act in 1948. It was not there before.

MR. WREN: What jurisdictions are there, to your knowledge, that have removed decertification procedures from the legislation?

MR. HAMILTON: I don't know; there is none in Canada.

MR. WREN: None that have removed them.

THE CHAIRMAN: What would you propose to do with a situation where a union had been suspended, or expelled from an organization and the members of that union wanted to belong to a union that would be recognized by the Ontario Federation of Labour? What would you do other than decertify them, or apply to have them decertified?

MR. HAMILTON: You wouldn't have to decertify them. All you would have to do is to go in and organize them again under a different jurisdiction.

For example, if the engineers we were talking about this morning were expelled from the Congress, if the people in that jurisdiction wanted to come back into the Labour

Congress they could organize under another jurisdiction, and they could get certification and then become part of Congress again.

THE CHAIRMAN: But if there is already a certified bargaining agent at that plant ...

MR. HAMILTON: Yes.

THE CHAIRMAN: ... how could it be done without decertifying the one that is already there?

MR. HAMILTON: You don't have to decertify the one that is already there if you go in and organize.

This happens every day in the month or quite regularly happens, whether you have one unit in the plant and they are being changed over to another jurisdiction, by simply making an application to the Board, with the signing of a card and a dollar payment to another union. This happens regularly. You don't have to decertify before you get another jurisdiction.

THE CHAIRMAN: And then you have two certified bargaining units in the one plant?

MR. HAMILTON: If the one that is there has a collective agreement and it runs for ten months, after that ten months is up someone else can make an application before the Board, and once the Board is satisfied with all the things and certify the other union

then the other union is default and that agreement is out of the window.

MR. MacDONALD: The point is that you have another union instead of having no union at all.

MR. YAREMKO: Would you say that is too readily used simply to harass the bargaining agent? And what type of harassing is it and who does the harassing?

MR. HAMILTON: You see, we have, again, to deal with these cases without a lot of evidence, but the general thing is that what would happen if this decertification procedure was removed from the Act, that we would have no employer interference, and without that, the employees would not move from one union to another union, because he would be possibly jumping from the frying pan into the fire, so to speak; but where employers are insisting that they get rid of bargaining units as quickly as possible and have their people decertified they carry along, by one means or another, a campaign during the life of an agreement which they don't want, and have petitions so that they can decertify and they get rid of the union altogether.

MR. YAREMKO: But that would be

locking the door completely. There might be instances where, without the employer participating, for some other reason the employees want decertification without any interference on the part of the employer at all, and if these restrictions were removed you would be locking the door completely; there would be no avenue at all.

MR. HAMILTON: If that is all they want, all they have to do is to let the thing go by the Board and change to another jurisdiction. They can let their agreement go by default so that it doesn't function; it just goes by default.

THE CHAIRMAN: Do you think that is a good thing?

MR. HAMILTON: I beg your pardon?

THE CHAIRMAN: Do you think that is a good thing -- that they shouldn't have a union?

MR. HAMILTON: No, I don't -- absolutely not. I think they should change jurisdiction if they are unhappy with the union which they have at the moment.

THE CHAIRMAN: Isn't that, in fact, what you are asking them to do here, if we took away the decertification?

MR. HAMILTON: What is that?

THE CHAIRMAN: That they be allowed to change to another union.

MR. HAMILTON: We are simply saying that all they have to do is to change jurisdictions without being decertified. They must wipe out the bargaining rights altogether.

MR. ROWNTREE: Suppose that the union does not want this group of men to leave it. Isn't that the normal position?

MR. HAMILTON: Surely; of course that is the normal procedure. They will try to prevail on them to stay on with it.

MR. ROWNTREE: And to prevent the transfer to another union?

MR. HAMILTON: That may be true.

MR. ROWNTREE: Well, it is true. It is not a case of "maybe." It is the practice in every case, is it not?

MR. HAMILTON: Yes, I suppose it is.

MR. ROWNTREE: Do you know of any cases where any union executive has said: "Okay, let them go"?

MR. HAMILTON: Yes. I have been a party to them. I have transferred substantial units to their proper jurisdiction because it is

good business.

MR. ROWNTREE: So long as the new group coming and taking over is within the A.F. of L. But if they were in the United Mineworkers, you wouldn't consider it.

MR. HAMILTON: No, certainly.

MR. YAREMKO: It is very obvious. In the statistics which were supplied to us by the Department, that it would appear that in the 1956/57, 36 applications for the termination of bargaining rights were dealt with. Is that what is known as decertification?

MR. FINKELMAN: I would regard it as such.

MR. YAREMKO: There were 11 terminated, 26 dealt with and 5 withdrawn. There appeared to be some necessity for such proceeding in at least 11 out of the 26 that were dealt with; and outside of those where a representation was granted -- out of 14 votes that were granted, 4 were successful, and 10 -- at least, the respondent union was only successful in four and the respondent union was only successful in 10. So there appears to be some sort of need, whether it is to any degree, or, at least, some sort of procedure, because it is being used.

MR. HAMILTON: I suggest that if the bargaining units which were decertified, or lost their bargaining rights, had been given the opportunity whether they wanted to do this or transfer to another unit, under the same circumstances the results of that may have been different.

MR. YAREMKO: I don't follow that.

MR. HAMILTON: If they had a choice of whether they would drop the union contract or bargaining rights completely, or whether they would transfer their bargaining rights -- if that opportunity was afforded them, under these circumstances we think they would have transferred the bargaining rights rather than have dropped them.

THE CHAIRMAN: I presume when any of these applications for decertification is to be made to the Board evidence would be offered as to whether an attempt had been made to harass the bargaining agent?

MR. HAMILTON: Yes, I suppose there would be.

THE CHAIRMAN: Had there been evidence of that nature brought in these cases of decertification here?

MR. HAMILTON: I would imagine so.

THE CHAIRMAN: Does anyone know conclusively whether that has happened?

MR. MILLING: Yes, it has happened.

THE CHAIRMAN: Did it have any effect on the Board?

MR. MILLING: It some cases it did. It did in the case of Remington Rand and the International Union of Electrical Workers, which is one case that comes to mind; and I believe the Labour Relations Board -- I am pretty sure the Labour Relations Board -- dismissed that application of decertification.

THE CHAIRMAN: Refused to decertify on the evidence produced?

MR. MILLING: Yes; that is just one example.

THE CHAIRMAN: Doesn't that safeguard the position, then, of the bargaining unit?

MR. HAMILTON: I am simply saying that it is difficult to get evidence to substantiate the way in which the decertification proceedings are brought about. It is most difficult.

MR. COURTNEY: But there is no restraint on the bargaining agent to bring evidence to the attention of the Board.

MR. HAMILTON: Not under this Act.

MR. PUNNETT: I think you will find in most cases the decision would be like the old Scottish decision of "Not proven". Everybody knows they are as guilty as the devil, but nobody can prove it.

THE CHAIRMAN: Do you know of any such instance?

MR. PUNNETT: If you can't prove it, then you can't say you know of it.

THE CHAIRMAN: Do you know of any such instance as the one to which you have referred, where that has occurred?

MR. PUNNETT: Yes.

THE CHAIRMAN: Tell us about it.

MR. PUNNETT: In the case of Cornwall Motor Sales Limited, in Cornwall, about four years ago, in which a foreman distributed the petitions and the company denied that they had any jurisdiction with the foreman and that he was acting entirely on his own initiative.

THE CHAIRMAN: And was that evidence given to the Board?

MR. PUNNETT: Yes.

THE CHAIRMAN: And did they believe the evidence that he was acting entirely on his own initiative?

MR. PUNNETT: No.

THE CHAIRMAN: What do you mean? Did the board ...?

MR. PUNNETT: The Board ordered a vote.

THE CHAIRMAN: Well, then, what complaint do you have about that? Surely that is protecting your position?

MR. YAREMKO: Wouldn't there be a psychological reaction on your part, in any event, where a group of employers -- or, a rather a group of employees -- did take up a round robin petition? You are really in no position to judge whether that is an honest round robin or whether it has been instigated by someone. Isn't there a psychological reaction on your part to believe that the employer has, invariably something to do with that type of thing, or do you believe there can be instances where a group of the employees can, honestly, of their own volition, meet together and make a round robin decision?

MR. HAMILTON: Well, I suppose there are instances -- and I haven't got the evidence to substantiate it one way or the other -- but the kind of complaints and evidence that we get people who know of these things and

they come to us and tell us what happens, but they say: "We won't go in front of a Board," or "We won't go on the witness stand because it is as much as their job is worth." You can't get these people to give evidence.

THE CHAIRMAN: Has the Board not the right to subpoena these people to give evidence at your request?

MR. HAMILTON: I beg your pardon?

THE CHAIRMAN: Has the Board not the right to subpoena these people to appear before them?

MR. HAMILTON: Yes.

THE CHAIRMAN: These people who make complaints can be forced to go before the Board.

MR. HAMILTON: Yes; but you don't subpoena a hostile witness.

THE CHAIRMAN: If he can be described as a hostile witness I would certainly subpoena him very quickly and get the opportunity to cross-examine him.

Shall we move on to "Craft Units (Section 6(2))"?

MR. WREN: If we changed the word "shall" to "may" would that meet with your approval? That is subsection 2 of Section 6.

It says: "... pertains to such skills or craft shall be deemed by the Board..." Would it meet with your approval if it read: "...pertains to such skills or craft may be deemed by the Board ..."?

MR. ARCHER: That is probably a legal point which could be resolved by the lawyers.

MR. MILLING: Excuse me, Mr. Chairman. May I explain that we were looking over the report of the Goldberg Committee and we felt that there was, as Mr. Archer said, a small legal point involved here. Our point was that when the Board is considering craft units it should not be bound by this expression "established trade union practice."

It is our feeling, or, at least, the feeling of the people that are here -- Mr. W lsh might correct us if we are wrong -- we felt that in this section the word "shall" -- that "may" wouldn't overcome this problem. In other words, if the clause read: "Any group of employees who exercise technical skills or who are members of a craft by reason of which they are distinguishable from the other employees and commonly bargain separately and apart from other employees to a trade

union that according to established trade union practice pertains to such skills or craft may be deemed by the Board ..." and so on, in effect the Board would still be bound by the criteria of established trade union practice.

It is a legal point on which we might well have obtained legal advice, but perhaps Mr. Walsh can help us ...

THE CHAIRMAN: Not at the moment, no. Have you consulted your legal branch? That is your problem, to draft the wording that this committee is to consider.

MR. MILLING: No, we haven't. We didn't feel it was necessary. We were pretty sure of our position. But, if you like, it could be confirmed by some of the legal officials here.

THE CHAIRMAN: You are asking us to re-word the section to permit the Board to depart from the established practice.

I would suggest that you have legal counsel of your own experienced in that sort of thing, and you should have your legal counsel draft the wording that he thinks we should embody in the Act; then we should be

able to consider it. We want to know what your wording is, or what your proposed wording is.

MR. HAMILTON: We will do that.

MR. YAREMKO: Isn't there a conflict of ideas in your camp as to whether the trade union movement should go on to the goal where employees are organized as units without, say, employees being organized in crafts? Isn't there a conflict of where one goal should be headed for?

I have always been of the opinion that there was a likelihood of more industrial harmony on a basis of which the management and the employees could come to grips with each other -- when management is dealing with a body of employees rather than dealing with one particular craft and another particular craft and a third or fourth particular craft; and, secondly, I suggest that you get together better if you sit down and deal with everything across the table at the same time.

MR. HAMILTON: I would have to answer that by saying that under this section of the Act we are not dealing with that problem at all. Under this section of the Act we are simply asking that the Board be

given some wider power than the power of past established practice when dealing with the designation of craft bargaining units.

This has nothing to do with industrial unions, or anything else; it is simply to give the Board a free hand to establish draft units away from past established practice. In other words, as new crafts are developed and new units are established, then the Board should be given the power to set those up and not be bound by past practices.

That is all we are saying in this section of our submission.

MR. YAREMKO: Doesn't this section prevent the increase of craft unions, or prevent craft unions being split up?

MR. HAMILTON: The section is in the Act now.

MR. YAREMKO: That is more or less the situation as it exists today?

MR. HAMILTON: Yes.

MR. YAREMKO: Then, isn't it your belief that is good? If you were to free them, or do away with that proposition, then it would lead to ...

MR. HAMILTON: What this deals with is new crafts that might develop. In other

words, over a period of four or five years from now there may be entirely new crafts, with automation coming in, and new crafts developing as a result of that kind of technique. 6 We feel that the Board should be given the power to set these crafts up and not have to set them up under the established practice.

THE CHAIRMAN: And you are going to get the wording you would care for?

MR. HAMILTON: Yes.

THE CHAIRMAN: Page 7, Article III, Negotiation of Collective Agreements. Bargaining Committees, Section 12 of the Act.

What you want to do is to recommend that Section 12 of the Act be deleted entirely?

MR. MILLING: Yes.

MR. YAREMKO: Wouldn't that lead to outside persons bargaining on behalf of employees -- if this section were deleted?

MR. HAMILTON: The net result could be.

MR. YAREMKO: Someone other than employees within the plant would be bargaining.

We had representations made to us by one of the unions -- I think it was the National Council -- that they thought it should

be compulsory for someone involved in the management to participate in the bargaining committee and not that the management should assign the duties of bargaining to someone who was not directly involved in the management itself.

Do you subscribe to their proposition? I haven't got their brief before me.

MR. HAMILTON: We are simply saying under this section that if employees, or bargaining units, decide who is going to do the actual bargaining for them, the decision is to be left with the people in the bargaining units. It should not be set up in the legislation.

If the people in the bargaining unit want to designate people other than people in the plant to do their bargaining for their side, they should have that right.

MR. YAREMKO: And the management should have that, too -- which the management now do?

MR. HAMILTON: We don't care who does the bargaining so long as they have power to sit down and approve an agreement. It doesn't matter to us whether the management is there so long as the people delegated have the necessary power to conclude an agreement.

MR. YAREMKO: Wouldn't it be much

if persons involved in the management directly and the employees directly were able to meet across a table rather than having completely outside parties to do the bargaining?

MR. ARCHER: On some occasions, yes: On other occasions, no. It just depends. I couldn't answer that question Yes or No.

Different situations arise. For instance, in the building trade I suppose, in the case of carpenters who have a going wage for the area, it would be necessary to have somebody there to represent other carpenters if there was a change in the going rate in that area.

In an industrial plant it might be different.

I don't think I can answer Yes or No to that. All you want are the people most likely to effect, as quickly as possible, a satisfactory settlement.

MR. METZLER: There is one statement that could be made: In the composition of the bargaining units -- that is, the bargaining committees--while all the provisions of the legislation insist that employees in a plant, or a given unit, be represented at the bargaining table, there is no prohibition

on the international representative, or the general representative of the trade union movement, being there to assist in the bargaining.

MR. ROWNTREE: They invariably are, are they not? One of the paid organizers goes and does the bargaining, so that they get professional bargaining.

MR. HAMILTON: Yes; but there is nothing in this legislation that says that the management have to be accompanied by a committee of the local management. They can send a representative without any representative from the local management; and under the Act you have to bargain with them. But by the same token you have got to have a committee of employees from the union. It is not consistent.

MR. ROWNTREE: It seems to me that you are not in agreement on this thing. Mr. Archer has got one view and you have got another.

MR. HAMILTON: We are in complete agreement. I think Mr. Archer will say exactly the same thing that I am saying, that under this legislation management can be represented by an outside party without any representation from the management, but the union, on the other hand, while it can be represented

by the international representative as Mr. Metzler says, he must also be accompanied by a committee of the employees.

So I say that it is inconsistent; and there is no disagreement with Mr. Archer on that point.

MR. YAREMKO: There seems to be an inconsistency. You don't care which way it goes so long as the inconsistency is removed?

MR. HAMILTON: No, that is not true. I think that the Board should be free. That is our position -- both should be free to designate who is going to do their bargaining, and if it is good business for the company not to have anyone from the company, that is fine; and if it is good business for the union not to have anyone from the union, that is fine; but they should be free to allot their own bargaining people.

THE CHAIRMAN: Aren't they free to do that?

MR. HAMILTON: No. They have to have a committee from the people who are the employees involved.

MR. UREN: What is so wrong about that?

MR. MacDONALD: Isn't the thought

at the back of your submission that in the instance of very small bargaining units, the designation of one person places him in the position where he can be victimized by the management?

THE CHAIRMAN: That is going back to the bug-bear that they are suspicious of management all the time?

MR. MacDONALD: Don't get any of your snide remarks in, Mr. Chairman.

THE CHAIRMAN: It is not a snide remark.

MR. MacDONALD: Of course, it doesn't happen in the case of the A.F. of L., but in some instances the situation is that we could be victimized.

THE CHAIRMAN: I don't know if you are in a position to read the minds of the A.F. of L.

MR. MacDONALD: I am asking the question, if you will permit me to ask it.

THE CHAIRMAN: I thought you were directing it at me.

MR. MacDONALD: No; I directed the question to the delegates.

Is that the thought at the back of your proposal?

MR. HAMILTON: It is one of them. There are two problems. One problem is where

you have seasonal employment where bargaining is carried on and you have no people actually in the bargaining unit. The other problem is one where -- and I know the Chairman is going to say, before I even start, "Have you got evidence?" -- where the management simply says to the employees: "If you are part of this bargaining unit, the first chance we get you are going to be fired." So we have great reluctance on the part of people to act on a bargaining unit.

I will give you an example. We had a Board of Conciliation set up, and when the Board opened its hearing some 75 people trooped into the room. The Chairman said: "Who are all these people?" He said: "This is my bargaining committee." The employer said: "Those are all my employees." The Chairman of the Board said: "Why have you got all these people here?" He said: "For the simple reason that the employer has said that any people who are going on this bargaining unit he will discharge; so let him discharge the whole plant."

That happened here in this room. Subsequent events proved that to be true, because they had a long and bitter strike and

lost the strike. But what we had to do was that the Conciliation Board had to get, on paper, the designation of the bargaining unit and obtain an undertaking from the employer that he would not discharge those people who were designated as the bargaining unit.

The other instance that I had in mind is one where I was on a Board of Conciliation and we had a lawyer appearing in front of the Board of Conciliation arguing that, technically, under this Act, the union should have a representation of employees before he would proceed; and he was there arguing in front of the Board on that technicality without any representation on behalf of the employers because he had the protection of, and he was right under, the Act. But it is most unfair for him to be representing the company, acting under this Act, and it is our submission that the unit of the employees should have been ...

MR. REAUME: Isn't the main thought in the brief, in the matter of bargaining, to put the employer and the employee on the same footing? Is that the real purpose?

MR. HAMILTON: That is only part of the problem, because in many, many small units you have a most difficult time getting

bargaining people, and where an employer has been through the whole organizational campaign, when you come to elect people on the bargaining committee, you have a most difficult time, because the people are afraid to act, particularly -- as I am informed from behind -- on first agreements; there is a definite reluctance and fear on the part of a committee to act on bargaining units.

MR. MacDONALD: I don't know if Mr. Hamilton is going to attempt to give instances, or whether Mr. Hamilton can corroborate that with further particulars, but I personally have had representations from the printing trade unions. In the printing trade unions, which are normally very small, and where the units are very small, this is a problem that they face on many occasions.

I don't know, Mr. Hamilton, if you have any further evidence about the printing trade, but it was with that fact in mind that I was asking the question.

MR. HAMILTON: I have no evidence.

THE CHAIRMAN: So we will move on conciliation, Sections 13 to 29 and related sections.

MR. HAMILTON: Mr. Chairman, on

that last point, it has been drawn to my attention that we have an example of it which can be dealt with by a member of this delegation.

MR. BOOTHROYD: I would like to refer to a current instance where that particular situation, that has grown up under the present Act creates a very serious problem, and this particular instance involves an entire industry. It is not singular in that sense, but in this particular case it involves what is an entire industry, namely, the tobacco industry -- the tobacco-processing industry. It is a large industry in the south-east section of Ontario.

The factory employs workers on a seasonal basis. There is a committee of people which operates in most of the plants for months and is shut down for another period of approximately eight months for the simple reason that no employe s are required in that plant.

Now, United Packing House workers are certified in one of these plants -- in which 1,500 employees are involved -- and in another instance where certification was granted and the negotiations commenced, after the second meeting the seasonal operation of the company ended and the company dismissed all of its employees and left the union in the

position of not being able to appear to continue negotiations with the company under the conditions of the Act. Subsequently, of course, the company has applied for decertification of the union because they cannot maintain the requirements of the Act and produce a committee of employees of that company, simply because the employees are now in a dismissed status and will remain so for a period of eight months.

In the second instance the Board was handicapped and the union was handicapped. An application was made and the Board has found that the union is entitled to vote; but likewise, because of the similar circumstances, the Board cannot order a vote, obviously, until these employees have returned to the plant.

In the first instance we had the problem of the union having bargaining rights under the Act but it can lose these bargaining rights if the company is successful in proving its case for decertification because the employees are not entitled to representation during this off-season period. In a situation of that kind it would appear obvious -- and I think the Board is sympathetic in this kind of situation to the union's position -- that the union at least should have the right to

continue negotiations during that period. Certainly, the union should not be placed in the position of being in the jeopardy of losing its jurisdiction during that period of time.

MR. ROWNTREE: Are they all transient employees in that industry?

MR. BOOTHROYD: I beg your pardon?

MR. ROWNTREE: Are they all transient employees in that industry?

MR. BOOTHROYD: In one plant all but nine employees of 650 are transient -- well, it isn't in the sense that they are temporary. They are residents of that area. They leave that particular industry and ...

MR. ROWNTREE: Do they move up to the head of the Lakes and disappear, or do the same people come back year after year?

MR. BOOTHROYD: The same people appear year after year, but they don't have as the company says, any seniority right. They don't recognize them as continuing employees. They are re-appointed as new people every year.

THE CHAIRMAN: What is the situation there, Professor Finkelman?

MR. FINKELMAN: Pretty much as has been outlined.

As a matter of fact, I believe I

referred to the case that has just been mentioned to the Board when we were here a couple of weeks ago. That was one of the cases I had in mind where the vote was postponed until a representative group of employees was acknowledged by the management of the company.

THE CHAIRMAN: And what about this application that this gentleman has suggested is being made to have them decertified because they are no longer working?

MR. FINKELMAN: The application in that particular case was dismissed.

THE CHAIRMAN: So; so that they are still a bargaining unit?

MR. FINKELMAN: The unit is still the bargaining agent in that case. We came to the conclusion that the bargaining rights should not be terminated.

MR. YAREMKO: Was certification granted there without a vote in that particular instance?

PROFESSOR FINKELMAN: I don't recall -- I think certification was granted on a show of cards; it was well over 55 per cent.

MR. YAREMKO: WThen, do you have the possible situation of having a union bargaining for its employees when these employees are taken back in again and almost all the employees

could be new employees?

MR. BOOTHROYD: It could conceivably happen. The company there says it does happen because they don't recognize the past service of these employees. They hire them each year as new employees without any regard to past services whatever.

THE CHAIRMAN: It doesn't matter much what the company says so long as they are recognized by the Board as a bargaining unit.

MR. BOOTHROYD: Yes; so long as they have the recommendation.

THE CHAIRMAN: And in this particular instance certification has been refused?

MR. BOOTHROYD: Yes. Mr. Chairman, the point we are trying to make is simply that the union has lost its ability to function once this situation occurs under the Act. It cannot produce to the company a committee to which the company is bound, regardless of certification. The company takes the position: "This committee is not composed of employees of our company. Yesterday they were. We recognize them. We negotiated with them. But last night we fired them, so

today you have no committee, therefore we don't have to recognize you." Now, if the Act were amended as the Federation is asking this committee to recommend, to provide, in circumstances such as those, the unions with a right to continue to represent those employees who, in effect will be returning, they would be protected and negotiations would, therefore, continue. The fact that the plant is shut down for this period isn't going to change the requirement to conclude a contract to represent the employees who will be working, unless, of course, the plant is moved, or is dismantled, or there is a change in the name of the firm, or something of that kind.

MR. HAMILTON: What we are dealing with here is the difficulty of getting a bargaining committee.

MR. WREN: In other words, you have got a ghost union. You have got a bargaining union, and no business for it to transact.

THE CHAIRMAN: I think we understand the position.

Conciliation, Section 13 to 29, and related sections. That is on page 7.

MR. WREN: We have seen quite

extensive statistics of the department concerning conciliation, and the results of conciliation -- statistical results -- but do you say it is so, or not so, that the trend seems to be that conciliation officers settle disputes in smaller companies, and in the larger companies and the larger unions that invariably they go to the Board for settlement? Is that so?

MR. HAMILTON: Yes -- well I haven't got the answer. The only I could answer would be from my own experience, and my own experience is that that is true. I think small bargaining units proceed to boards.

MR. WREN: How about the larger plants and larger unions? Do they usually go to conciliation boards?

MR. HAMILTON: I haven't the evidence to support that.. I don't know. I haven't even seen the breakdown from the department as to the size of the companies that do proceed to boards. I haaven't seen that kind of breakdown.

MR. WREN: What has been your own experience?

MR. HAMILTON: My own experience is that with small units and large units it depends on the issue involved in it. I suppose

in any unit, whether it be a large or a small one, if they are breaking new ground they would go through the procedure and go to strike. But I don't think there is any distinction between small and large unions.

MR. WREN: You can say that conciliation officers are just as effective in the large unions as they are in the small unions, proportionately?

MR. HAMILTON: From my own experience I would say Yes.

THE CHAIRMAN: Are there any further questions on that section?

MR. MacDONALD: This is one section in which there has been a change in policy following the merger convention. The merger convention has now endorsed the proposition of voluntary mediation. I wonder if you would elaborate on that -- the concept of voluntary mediation rather than compulsory mediation?

MR. HAMILTON: Well, Mr. MacDonald, I think that that is a combination of a whole lot of things and I think it is the combination of complete frustration on the part of unions generally in the province of Ontario with conciliation and conciliation procedure. It is the only place, to my knowledge that compulsory

conciliation was put in, and, the evidence will show it just simply hasn't been effective. It hasn't done the job it was supposed to do.

We say that this is a complete departure from something that has just not worked, and, therefore, we say the only thing we will do is that we will be prepared to try it on a voluntary rather than a compulsory basis.

MR. MacDONALD: What is the position in this regard in other C.nadian provinces?

MR. HAMILTON: I beg your pardon?

MR. MacDONALD: What is the position in this regard in other provinces? Do you know off hand?

MR. HAMILTON: Saskatchewan has a voluntary conciliation system.

MR. WREN: Why do you say: "It is only with the consent of the trade union concerned ..."? What is the reason for that?

MR. HAMILTON: I beg your pardon?

MR. WREN: You say: "Voluntary conciliation services, available to the parties only with the consent of the trade union concerned..." Why do you suggest that it should be "Only with the consent of the trade union concerned"?

MR. HAMILTON: Because it puts it on a voluntary basis.

MR. JACKSON: May. I ask Mr. Hamilton a question, Mr. Chairman? I wonder if you would explain to me just a little more fully why you think a voluntary basis would be better than a compulsory basis?

MR. HAMILTON: I think that it would do away with the delays which you have under the present set-up.

In other words, I think there are many bargaining sessions which start out with the assumption: "Well, we have got a certain procedure to go through, and we will go to the conciliation officer stage, or to the Board stage. We have to go through the rigmarole of this conciliation and we don't have to face up to any real bargaining until we get to the end of the road, and that may be six or eight weeks from now; and that is the only time we have to do any real effective bargaining." We say that if it were put on a voluntary basis then the employer and the union had to face up to doing some serious bargaining at the outset of the bargaining, thereby saving the province a lot of money and a lot of time; and they would get to the point where they would do that and the procedure would not be used as a vehicle to travel down the road until you got to the

conciliation officer stage or the Board stage.

MR. JACKSON: Would you not accomplish that shortening the time?

MR. HAMILTON: Let me say this to the Committee, that you can write whatever time you like into the Act; this Committee can write whatever time they wish into this Act and it will not be observed, because it is impossible. There are time tables set out in the present Act -- with all the good intentions in the world, I suggest -- but they just can't be and have not been followed. It is impossible; and I think the people in the Department will bear me out, that that is true -- that there is in the Act specific time tables and nobody can make these time tables be adhered to. All you will do if you will shorten the time table in the Act or revise the Act to shorten the time tables, is to further frustrate the whole procedure rather than help it.

MR. JACKSON: I was talking about this before to the Department, and I thought everything went along pretty well on schedule. Am I right in that?

MR. COURTNEY: I doubt if the Department, or anyone else, can point to many

instances, if any -- I doubt if they can point to a single instance in which the time schedule laid down by the Act has been adhered to in conciliation proceedings.

MR. YAREMKO: We will be given statistics on that.

If the conciliation procedures are done away with completely, that would mean that the so-called cooling-off period would be done away with completely, too. That means, as I understand it, that the economic weapon of the strike or lock-out be available to the union or to the employer immediately.

MR. HAMILTON: This is not a facetious answer to your suggestion, but the so-called cooling-off period is generally a heating-up period; it is more often a heating-up period than a cooling-off period.

MR. YAREMKO: Do I understand Professor Finkelman, that if the conciliation procedure were done away with and it was put in the hands of one party to decide whether they would invoke it or not -- does that mean the economic weapon would be available to either party, of a strike or a lock-out?

MR. FINKELMAN: I would only answer the question in this way, that if the Act were preserved as it is at present, and

the conciliation provisions were deleted then it would follow that at a certain stage the union would be able to declare a strike and the employer would be able to declare a lock-out immediately the agreement came to an end.

MR. ARCHER: After proper notice. There would still be, I suppose, at least 30 days in some cases and in some cases 60 days and in some cases 90 days for the communication of the intention to bargain, and you would wait from the time you gave notice until you came to the end of the contract. You would have that period before either side could take economic action.

MR. MacDONALD: If I understand you correctly, your objection is that the conciliation procedure does not contribute to collective bargaining; it sort of displaces it so that collective bargaining ceases?

MR. HAMILTON: In many cases, yes.

MR. YAREMKO: There is no indication that if conciliation procedures were to be done away with there would be more collective bargaining?

MR. HAMILTON: We don't know. We have never had it. We have always lived our lives with compulsory conciliation. You

suggest that there wouldn't, but we don't know because we have never tried it.

We say it has been tried compulsorily and it hasn't worked, and we suggest that we try the voluntary system and we suggest that it will work.

MR. MacDONALD: What is the position in the States? Are there some jurisdictions in the United States where there is voluntary conciliation?

MR. HAMILTON: I am really not familiar with all of the legislation, but any place in the United States it is voluntary conciliation.

MR. REAUME: What happens in the instances where we have a wild-cat strike? The company calls it a wild-cat strike and evenutally the union calls it something else -- a lock-out; and the union wants to sit down -- a lock-out; and the union wants to sit down and the company says: "We don't want to talk."? One feels they have the other one over the barrel. What do you think we ought to do in an instance of that kind?

MR. HAMILTON: There is power under the present Act for either the employer or the union to appear in front of the Board and have the declaration made that it is an

illegal strike; and then the employer has the right to go into the courts.

MR. REAUME: So that besides taking time, as you say, instead of a cooling-off that it is a heating-up.

Don't you think, in that instance, the Department, or the Minister, ought to have the power to call both parties in?

MR. HAMILTON: One of the quarrels we have with the present set-up with all due respect to the Department -- is that the Department has to wait for people to come to them and ask for assistance -- either the employer or the employee -- and in that situation ...

MR. REAUME: I want to put it the other way around.

MR. HAMILTON: What I am saying is that where there is an illegal strike, or any disturbance or trouble of any kind at all, I think it is the duty of the Department to step into that picture and do whatever they can to get them together, whether it is an illegal strike, or whether it is a lock-out, or any one of these situations. I don't think the Department can sit idly by and let them run their course.

MR. ROWNTREE: Doesn't the Minister come in under the present Act?

MR. HAMILTON: No, not unless he gets a request from a party.

MR. REAUME: I always felt that, rather than waiting until the fire gets going good you should go to the man in charge of the Department and he should call them in at the same time and say: "Let us talk."

MR. HAMILTON: We don't have any disagreement with that.

MR. YAREMKO: On page 20 of the report there seems to be an analysis of conciliation procedure. I don't know whether you have had an opportunity of studying the statistics that the Committee received last week...?

MR. HAMILTON: From the Department?

MR. YAREMKO: Yes, from the Department; in regard to 1956/57 and 1955/56. When I saw these statistics I was inclined to be favourably impressed, but I notice that in the report it says: "We do not think this is an enviable record for any service which performs an important social function. And we certainly cannot see that the record gives any basis for the adoption of the attitude that 'conciliation in Ontario is working well.'"

I wonder whether that statement would be revised at all in the light of the most recent figures which we have?

MR. HAMILTON: This is Mr. Goldberg's report, and he is here and maybe he can say something about it?

MR. GOLDBERG: As a matter of fact, Mr. Chairman, there are three members of the Committee that drafted the report who are present here today.

I notice our figures do not disagree so wildly with the Department's figures, although I haven't had time to study them thoroughly. They say that conciliation officers settle approximately 50 per cent of the disputes which are involved. We say they settle disputes in much less than 50 per cent of the cases in which they are involved. That can be checked. We say the Conciliation Board settles less than one case out of three in which they are called upon.

I suggest that the Committee should do a comparison with the system where it is voluntary. It seems that this compulsory situation produces less of a benefit than the system under which there is voluntary mediation; and according to certain experts in the field of labour relations, it will be

apparent to the Committee that the story in Ontario is much poorer than the story in the State of New York, where there is a voluntary system, and much poorer in England where they have always had the voluntary system.

MR. MacDONALD: Who are these experts?

MR. GOLDBERG: Professor Woods is one who has done a very detailed study of this.

Unfortunately, we didn't have the time or the manpower to go into all the circumstances. We did a fairly superficial study, but we did make a study of the system in the U.S. and we found those statistics that I have been speaking of, that the record in Ontario is much poorer than in, for instance, New York State. That should give us no pride whatever in the fact of our system working well.

Whether the Committee feels that the system can be improved to the extent that it would provide a better record is another question. However, I think they should look into the record very thoroughly before they come to the conclusion they are satisfied with the record. If you are satisfied with the record, I think you are overlooking a great area where you should be comparing the

statistics.

THE CHAIRMAN: Do you think we should go down to New York?

MR. GOLDBERG: I am not suggesting that we take that trouble. I am suggesting that, perhaps, we could get these records.

I am not suggesting, Mr. Chairman, that the Committee shouldn't travel to New York!

MR. PUNNETT: To add further to what Mr. Goldberg has said, I know that in the industry that I represent ...

THE CHAIRMAN: What industry is that?

MR. PUNNETT: The Rubber Workers... this is the first year we have settled a contract. We found in the past that when we got down to negotiate with the companies we couldn't get down to any real bargaining before we reached the Conciliation Board stage, and the process went from one to another.

I think it is about time we took a look at that situation and changed the Act so that we can get right down to real bargaining, without the delays in the conciliation services; and get it on a voluntary basis, too. That is what we are aiming at.

MR. ROWNTREE: That is what you call

wringing the water out of the bargaining procedure.

MR. PUNNETT: The way it is now you are completely forced to go through conciliation before you can make a settlement.

That is abcut what it adds up to.

MR. ROWNTREE: You say "Before you come down to real bargaining"?

MR. PUNNETT: Yes. Under the Act today, the way it is set up, and before you can actually get down to real bargaining and a true relationship is at the Conciliation Board level.

MR. ROWNTREE: I take strong exception to that. Let us develop that.

I think there would be fault on both the management's part and labour's part if you haven't got down to good bargaining soon after going through the process.

THE PUNNETT: The company is afraid to make an offer because they feel they will be brought into a stage of conciliation. The union will not accept an offer because they feel there is more there.

MR. ROWNTREE: I am saying that there is fault on both sides.

MR. PUNNETT: It is the fault of the Act.

MR. MacDONALD: With the existing plan, in the case of the union and the management, surely the problem is that you have got a ten--stage process. Neither the company nor the union is going to sort of play their full hand and set forth their final bargaining position ;until they go through the ten stages. If they do it on the first stage what are they going to do in the remaining nine? As I understand your point this is a long protracted procedure that doesn't contribute to collective bargaining?

MR. PUNNETT: That is so.

MR. HAMILTON: This is what happens in actually bargaining: From time to time employers say to me: "We have got a reasonable and fair offer to make to you, but, in any case, I assume we are going to have to go through conciliation. We will make you an offer but we are not going to make it at this stage for you to use as a bargaining thing before the Board."

By the same token I have seen unions backing down until they got to the Board stage. So there is really no effective bargaining done and they are stalling until they come to the stage that they have got to do some effective bargaining.

MR. GOLDBERG: If I might make just a couple of remarks, this report is the product of a series of hearings which the Committee had, at which time we had representations of members of unions and employers. We called expert people involved in conciliation to come before the Committee; and the story was that even Members of the Legislature, Members of the Government party, Members of this Committee, have said publicly and at our Committee that the unions are quite justified in complaining about these long delays and about the inadequacy of the process.

This is not simply a reflection on unions alone. This complaint has been made by all parties and by observers who are not involved directly on the scene.

The report of the Committee is different in certain specific points from the report being presented to you now, and even that, to a certain extent also, could be corrected so as to produce a professional report on the conciliation/mediation process. The result of the convention obviously was -- and I didn't psycho-analyze all the delegates at the convention -- but I assume that as a result of their frustration with the process as it is now their reaction was

to take this process of the Act entirely and to ask that we get down to some system of voluntary collective bargaining which would result in agreements and which would stop the long delays we are now experiencing.

We had two possible alternatives. One was to have the period of 60 days during which the parties could choose whatever type of conciliation they wanted. We thought, perhaps, that would solve the problem. If that didn't solve the problem then, perhaps, the only remedy was to do away with compulsory concilitation and substitute voluntary mediation for it.

But the point I want to stress is the fact that it is a reflection of the thinking of many people -- not only one person, but practically everyone who came before our Committee; and we tend to be proud of the statistics that are being presented to the Committee by the Department. They are not something that we should take pride in. They would appear to be confessions of failure -- that the system we have adopted in Ontario has not worked well.

THE CHAIRMAN: Mr. Wren?

MR. WREN: With regard to this concilitation system at the Board stage, I recall that about a week ago someone wrote to

me from Hamilton -- I don't know whether Professor Finkelman or Mr. Metzler would have jurisdiction over this -- but it was my understanding ... I am just trying to recall the name of the firm. Brown Box -- that was the name of the company. Anyhow, I was informed that during Conciliation Board procedure and during the process of the writing of the report the employees went out on strike.

MR. FINKELMAN: Yes.

MR. WREN: During the time was in effect -- I am not sure whether they were really on strike or not -- the Chairman of the Board issued a majority report to someone in the Department of Labour.

How does that tie in with administrative procedure?

Are those facts correct?

MR. METZLER: I think that, substantially, they are correct.

There was a report sent into the Department by the Chairman and I believe the representative of the trade union in this particular instance; and in the normal course we certainly issue a report.

MR. WREN: Yes; but what position does that put the concilitation in -- the concilitation itself?

MR. METZLER: Well, I don't quite follow you.

MR. WREN: What I am getting at is that if my information is correct the majority report of the Board of Concilitation ...

MR. METZLER: Yes?

MR. WREN: ... set out certain references to terms dealing ...

MR. METZLER: Recommendations.

MR. WREN: ... to deal with the dispute.

MR. METZLER: Yes.

MR. WREN: In the course of that the employees went out on strike. Did that nullify the concilitation? Was the strike legal, or illegal?

MR. METZLER: Well, I suppose it might be open to the employer to challenge the legality of the strike before the Labour Relations Board. I don't think that was done. But we got the report and I probably issued it because that is our practice.

MR. WREN: I am not concerned with what the report did, but is it normal procedure that a Board Chairman would issue a report in the face of a strike or would he wait until the strike was withdrawn or settled?

MR. METZLER: Let me put it this way: I think that what likely happened there --

and I am subject to correction on this because I don't have any chronology on the events -- is that they had reached the end of the period of their efforts and it may have been that he adjourned the Board, and in the meantime the other Member of the Board may have considered the report and the union representative and the Chairman got together on a majority report on which they agreed, and that was submitted to the Board. There is no suggestion that a minority report was received from the other Member. A report of the Board came to my hands and I immediatedly released to the parties.

MR. WREN: Yes; but the impression I got -- and this may be entirely wrong -- I am trying to clear up my own mind on concilitation -- the impression I got from it was that by the majority report being issued -- in this case, I understand, by the Chairman and the union -- it left some of the procedure open.

MR. METZLER: I would say that where a Board of Concilitation was sitting and a strike of the employees of the union occurred I think that the concilitation procedure would be broken off.

MR. WREN: But in this case they had concluded?

MR. METZLER: That is my understanding.

MR. REAUME: Probably what actually happened is that they got tired of waiting for the result and went out on strike.

MR. METZLER: No, I don't think you could say that.

MR. REAUME: I have seen it happen.

MR. MacDONALD: At least it wasn't a cooling-off period. That is clear.

MR. YAREMKO: Mr. Goldberg, are you suggesting, in your reference to the statistics of the Department, in which it would appear in 23.1 per cent of the disputes no settlements were made -- are you suggesting that if there have been no compulsory conciliation proceedings you would have hoped that 23.1 would have been less -- if it had been on a voluntary basis?

MR. GOLDBERG: My suggestion is that if you were to do an even more detailed comparison than I was able to do on the basis of my study of the facts, I think that the record would be improved. There should be a comparison made of the situation in the United States and England where there is no compulsion.

MR. METZLER: I could only wish that

Mr. Goldberg could produce some of the facts to which he refers.

MR. GOLDBERG: May I ask the Chairman: Has there been no suggestion of these facts looked into?

THE CHAIRMAN: We are asking for the information from other jurisdictions.

MR. GOLDBERG: That is why I am suggesting that I think you will find the results would be better than what have been produced.

MR. METZLER: Mr. Goldberg makes that statement and says if you were to examine the facts you would that this is supported by the facts. I wish Mr. Goldberg would give us some facts.

MR. GOLDBERG: Well, let me refer the Deputy Minister to the paper by Professor Woods, presented at a meeting of the Political Science Association in 1954, I think it was.

THE CHAIRMAN: What page is that on?

MR. METZLER: Is that document available?

MR. GOLDBERG: Yes, it is. It was addressed to the Political Science Association.

THE CHAIRMAN: What page?

MR. GOLDBERG: It is referred to on page 17 of the report, but it is obviously

not included here.

Our committee admits the fact that we were limited in terms of personnel and limited in terms of time, and I find it not too difficult to realize that we might have read some other published material from different universities on this question of compulsory conciliation.

I can think of another paper by a professor at Assumption College -- Professor Phillips.

MR. YAREMKO: You will note that he refers to the Canadian ...

MR. GOLDBERG: I suggest that he base it on the experience in Ontario.

MR. MacDONALD: Perhaps Professor Woods could be asked to come before this Committee.

MR. GOLDBERG: I suggest that Professor Phillips has indicated at the last convention of the association that the system in Ontario apparently is not working well, and he certainly may have some statistics that may be helpful.

I don't feel that you would be going too far afield if you could study the results in the mediation department in the States to see the record of their success; and I don't

think that, having seen that, you would be so amazed at the record here. I don't think it is a good record.

MR. YAREMKO: Are there other jurisdictions in England and the United States where they have a compulsory system of concilitation?

MR. HAMILTON: That is one of the points we are going to make. The fact of the matter is that it is unique in Canada. It is something that was attempted here, and it was expected to produce better results.

I would suggest that, in view of this whole problem of industrial relations and concilitation in particular you should find out why it hasn't worked better. If it hasn't, then, perhaps, the experiment has proved useless.

THE CHAIRMAN: Professor Woods should be here.on the 16th.

MR. GOLDBERG: He is only one of the experts. I don't think you would be going too far afield if you were to compare it with reference to the States.

MR. COURTNEY: I think it should go without saying there is some question here of the advisibility of voluntary concilitation as against compulsory concilitation,

and I am sure the Committee woauld agree that they are dealing with human beings both in management and unions; and it does appear to be common, horse sense that in the event that one of the parties says that, since they cannot come to a settlement themselves, that they agree that they would ask for some outside assistance in the form of concilitation and mediation, there is a much better chance if they went in with the idea and intent of reaching an agreement with some outside assistance, that they would reach an agreement.

Our experience has been very much the same as that of Mr. Punnett.

We have reached lots of settlements without strikes, and we have had some strikes of which Mr. Reaume is aware, brought about partly by the long delays in concilitation; but we find in most cases, with large employers particularly and we deal with some pretty large groups of employers -- we find exactly what Mr. Punnett has said. There is no real effort made -- and, I have to agree, on the part of both parties -- to reach a down-to-earth negotiation session, or real honest-to-goodness collective bargaining until you have got the legal entanglements of the concilitation services out of the way; and I would say that

most agreements have been made after the Conciliation Board has met and after it has made its report, and any relationship that the agreement might have with the Conciliation Board is strictly coincidental, because in most cases it has absolutely no resemblance to the report of the Board -- the actual agreement.

Another thing we find is that in most cases I think that the term "concilitation" or "mediation" is certainly ill-taken in the way that most Boards act. I think the idea of concilitation is an attempt by someone to get the parties together. The only time that you can get, in most cases, any resemblance to concilitation is at the concilitation-officer stage. They do try to get the parties together. He goes to the parties and tries to get an agreement on matters. But how do most of the boards work? I suggest Mr. Wren should attend some of the boards here and he will get an idea.

The Board takes evidence as if in a court of law. They make no reference, or attempt to suggest anything to the parties in, I would say, eight cases out of ten, and hand down a report as though

it was a finding of a court and not a Concilitation Board.

MR. REAUME: I think what you say is absolutely so.

There is no more finding fault with this sytem that we have on the part of the union than there is actually on the part of the employer, and my opinion is that they are both tired of it. They are both sick of it. I think of all the things we have to do that is one of the most important; and I am just wondering -- we are going to be reading a lot of briefs and to be hearing a lot of evidence -- I am just wondering if we shouldn't bring in some of the people who were instrumental in erecting these boards and people who have worked for such firms as Ford and Chrysler and General Motors and ask them what they think of the way it is handled. I assume that you will find, in some cases at least, that they are not pleased either.

MR. GOLDBERG: In the three you mention we have never had settlements made by a Concilitation Board.

MR. REAUME: I think that is true. In the instance of the auto workers I don't know of a settlement.

MR. METZLER: I couldn't say.

MR. REAUME: I haven't heard of one and I have been hanging around a long time!

MR. METZLER: There is something which the Committee should have in view. This is a very sweeping challenge of the statistics that have beendpresented to this Committee. On the success or failure of the concilitation procedure I would point out that this is on a case by case count and that over 50 per cent of the matters referred to concilitation officers were settled by the concilitation Officers.

Mr. Fine indicated, when he appeared before this committee and spoke back in June, that he was able, or his concilitation officers were usually able to get a meeting going with regard to a dispute within the 14 days allowed, and in many instances settlement did occur at that time -- at the concilitation-officer stage.

With regard to the question of time lapse at the Concilitation Board stage, I would like to point this out to you -- and I think that both sides of the house -- the agencies -- have contributed just as much to the failure to terminate the proceedings quickly -- I don't think you can point ...

MR. REAUME: When you say "the house" you mean ...?

MR. METZLER: I mean the trade unions and management.

MR. REAUME: I was thinking of the big House!

MR. METZLER: I can say this, that there is very little delay occasioned in the actual process of setting boards up and getting notification out to parties. I think we can proceed at reasonable despatch to get the board under way; but after that what happens to the proceedings lies in the hands of the three Members of the Board, the representative of the company and the representative of the trade union.

MR. REAUME: That, I think, is one of the problems. One is out of town; one is sick; it is a case of: "We can't do this," or "We can't do that," and it just goes on and on.

MR. HAMILTON: Well, I simply want to say that I think that the Department has a responsibility to see that, once the boards are set up, they conform with the time table set out in the Act, regardless of for what reason; and if you are going to put time tables in the Act then it is the responsibility of

the Department to see that the boards do function in conformity with the Act, and they cannot lay the fault on the boards at all. The blame lies with the Department of Labour.

THE CHAIRMAN: If both parties suggest that they want a little further period would you not expect that to be done by the Board?

MR. HAMILTON: I would suggest that on very rare occasions, where there was mutual agreement; but I would also say that is very, very rarely that we get mutual agreement.

If Mr. Metzler has got the idea that concilitation is not time-consuming and is not taking up a lot of time, I would ask him to turn to the back page of the Goldberg Report, and, dealing with 1955, you will find figures like 22 weeks, 35 weeks, 43 weeks, and so on. I am not going to read them out for you and I will leave it at that, but I wouldn't want Mr. Metzler to leave the impression that this is wrong and that there is no time-lapse infraction of the Act as presently written.

THE CHAIRMAN: I don't think that Mr. Metzler has left that impression.

MR. METZLER: I am merely stating that these are the statistics we have been able

to produce.

I would like to draw something else to the attention of this Committee, and it is a difficult problem: But if you will take a look at the appendix at page 4 of the Report you will see that there are quite a number of cases -- they don't seem to run chronologically -- they start in 1954 in the first column -- this on Concilitation Boards -- and they run through from 1954 to 1955, and then they duck around to the next one ...

MR. PUNNETT: That is a comparison.

MR. METZLER: I would like to make some observations in connection with the second column. You will note that in most instances these are U.A.W. forms. There are two or three I.W.A. forms, but I will confine my remarks to the U.A.W. forms and I would ask the representative of the U.A.W. if he is sufficiently familiar with this group of reports to tell the Committee who represented the union on those boards?

MR. COURTNEY: I am not fully familiar with those reports, but I would assume that Mr. Drummond Wren was on quite a few of them.

MR. METZLER: I can see that in one instance, over less than two years, when Mr. Drummond Wren was the representative, he

was at one time engaged to the extent of having 41 Boards of Conciliation.

MR. ROWNTREE: At one time?

MR. METZLER: No, not at one time, but over a continuing period.

To me, it is totally impossible for one man to give attention to an entire group of boards that extend beyond two or three at any one given time and within a reasonable period.

MR. REAUME: I want to say that if any of these courts were in Windsor I don't think that Drummond Wren was on the Board.

MR. METZLER: I don't know.

MR. REAUME: I notice one of them here from Windsor.

MR. METZLER: Yes, that may be.

I want to say, too, that Mr. Wren is not the only person who is involved very deeply in representing either labour or management in connection with sitting on Boards of Concilitation. There have been others that have taken on a considerable number of boards; and certainly they cannot do justice to the situation if they are too deeply involved. It is impossible to get dates from them. It is impossible to set up a time table on which to operate.

I have had instances -- and I am making this statement without checking back to produce facts, because I believe everything should be checked -- but I have asked Chairmen to sit on Boards of Concilitation, and he has said to me that he is on boards and he has mentioned the names of other two members, and they have said No. They said No because we can't get dates from these various people.

THE CHAIRMAN: It would suggest the further point that a Government-sponsored training programme for conciliation officers be advisable so that we can have more of them.

MR. METZLER: I have no knowledge of instances where the Department of Labour have refused to accept the nominee of either party. How can you as long as they are otherwise eligible under the Labour Relations Act?

MR. MacDONALD: But isn't there something more abstract?

I was interested in the testimony of Mr. Courtney there. Does the Conciliation Board make any contribution to conciliation? In my observation from afar, you have the presentation of the case along with all these delays, and they come down with a report which, as he has suggested, in many instances has no relationship to the final agreement at all.

So apart from the time lag, if the Conciliation Board by its very nature and operation, is not conciliating as the conciliation officer himself did, what is the point of wasting time?

MR. METZLER: I will give you an answer to that by referring you to one of the of the outstanding Conciliation Board chairmen, Mr. Taylor. When he started off as a conciliator in this field -- and I may say that I invited him to start chairing boards after he had returned from what he was doing in another country -- he started, and over a period of, I would imagine, around a year or a year and a half, and sat on 44 boards officially as chairman and succeeding in settling 42 of the 44. Now, I don't know whether that is bad or whether it isn't. I point out that, on the straight count of these things, nobody likes to show them the responsibility for delay. We have passed them up as fast as we can and we leave it in their hands to get on with the business -- those who have to be present; to get on with the business as quickly as they want to.

MR. MacDONALD: On that 42 out of 44 -- is there any other chairman who can come within reach of that?

MR. METZLER: There have been chairmen

that have done as well -- probably there are a few -- but I don't think anybody has had that success over a given period.

MR. REAUME: Perhaps we had better open up a school, or something.

MR. GOLDBERG: May I also bring to the attention of the committee another thesis that has some bearing on this?

In 1956 Allan Porter wrote a thesis on the worth of Conciliation Board chairmen in Ontario, and although it is restricted by the use of A.B.C. and D. in designating who the chairmen are, the thesis gives some very useful information on how successful they have been. One chairman has been very successful and the others have not been successful. In other words, you can reverse them. Mr. Porter may be even useful in telling you who these chairmen are and his ideas of why they haven't been successful.

THE CHAIRMAN: Why don't you have him here with you?

MR. GOLDBERG: As a Federal Civil Servant I don't think he can be subpoenaed, but his thesis can.

THE CHAIRMAN: His thesis wouldn't be much use to us.

MR. METZLER: I don't believe that Mr. Goldberg's theory holds water because of the fact you cannot state, by looking at the list of chairmen and seeing that he has had a record of such and so forth -- that that really indicates the final analysis the measure of his success. A man might have had eight cases and four strikes.

MR. MacDONALD: But by that theory...

THE CHAIRMAN: Wait a moment. All right, Mr. Metzler.

MR. METZLER: We find the same thing in our conciliation officers. We can turn around and attempt to assess the merits or the demerits of their operations according to the number of agreements that they produce, but you can put a man into a situation that is extremely difficult-- something that may test his best efforts -- and he cannot produce a result, but he may have narrowed the issues and may have assisted towards the final termination of the dispute. The next fellow may have had two or three soft cases where the issues were not too great, which is a case of getting the parties together, and he has been able to settle; so it is three to one. The fact is that the fellow with the the three may not have been a man with

necessary experience or resources, put into a difficult situation; so I don't see how you can judge, on a box score, the relevant merits of the efforts of anybody engaged in this field. They all have their successes and they all have their failures.

MR. WREN: May I ask Mr. Metzler one question: Are you taking any time, in the study of this voluntary system, to deal with the situation that exists in Britain and elsewhere and comparing it with Ontario?

MR. METZLER: No; I can't say that I have made any detailed study of the situation. I confine myself very largely to my activities in the Department.

I have heard it discussed on many occasions at International conferences. It was a matter of discussion in Florida last year in regard to conciliation procedure and conciliation methods and the like of that, which was led off by Mr. Frank Finnigan, the Chief Conciliation Officer of the United States Mediation Services. As a matter of fact, I was a member of the panel.

MR. HAMILTON: To cut this thing short, I wish, again, to say that whether we should judge chairmen by the box score or not -- and I repudiate that by saying that we didn't

judge them by the box score -- and while I have every regard for Mr. Taylor as a conciliator, he has more than enough -- like Drummond Wren -- because he has those 44 boards on his hands, and I suggest to you that it is just as difficult now to get an appointment with Eric Taylor as it is with Drummond Wren.

I am not trying to knock either Drummond Wren or Eric Taylor at the moment, but this point is very clear, that this system doesn't work whether it is Drummond Wren or Eric Taylor. No matter who is following it up it just doesn't work.

THE CHAIRMAN: Gentlemen, it is 4.00 o'clock.

We haven't finished our discussion of this brief, but we have our schedule worked out for tomorrow when three briefs are to be submitted to us. I think, gentlemen, that in fairness to the Committee and to yourselves we should have you back at a later date to finish your presentation. I would ask you to come to some arrangement with the Secretary of our Committee, that will be suitable to both, and the Secretary can fix a date.

MR. HAMILTON: And we will proceed on from where we left off?

THE CHAIRMAN: You will proceed from where you left off.

We will, at the next sitting, when we hear you, deal with "Contents and Operation of Collective Agreements," or finish up, if there are any further discussions on this particular point.

--- Whereupon the proceedings adjourned at 4.00 p.m. to resume at 11.00 a.m. on Wednesday, October 2nd, 1957.

LEGISLATIVE ASSEMBLY OF ONTARIO

SELECT COMMITTEE ON LABOUR RELATIONS

Committee Room No. 1, Parliament Buildings,
Queen's Park, Toronto, Ontario

Wednesday,
October 2, 1957.

JAMES A. MALONEY	Chairman
HAROLD PERKINS	Secretary
GEORGE T. WALSH, Q.C.	Committee Counsel

MEMBERS:

G. E. Jackson
Donald C. MacDonald
Ellis P. Morningstar
Raymond M. Myers
Arthur J. Reaume
H. Leslie Rowntree
J. W. Spooner
Albert Wren
John Yaremko
Robert Macaulay

APPEARANCES:

Hon. Charles Daley	Minister of Labour
Mr. J. B. Metzler	Deputy Minister of Labour
Prof. J. Finkelman	Chairman, Labour Relations Board

ONTARIO HOTEL ASSOCIATION

Ike Siskind,	Treasurer: Chairman Labour Relations Committee
Clint Melville	Managing Director

APPEARANCES (Continued)

ONTARIO PROVINCIAL JOINT COUNCIL #22 OF BUILDING SERVICE EMPLOYEES' INTERNATIONAL UNION

Albert G. Hearn	International Vice-President
William Bain	Past President
Frank H. Taylor	President
George Williams	Treasurer
Herman Sorlie	Recording Secretary
James K. Logan	Vice-President
William Foley	Trustee

THE CHAIRMAN: Gentlemen, it is now eleven o'clock and we will come to order. On the agenda this morning the first brief to be presented is from The Ontario Hotel Association.

THE SECRETARY: The representatives are Mr. Ike Siskind and Mr. Clint Melville.

THE CHAIRMAN: Who will present the brief?

MR. SISKIND: Mr. Chairman, I will.

---(Mr. Siskind reads brief)

THE CHAIRMAN: Thank you very much, Mr. Siskind. Gentlemen, enclosed in the brief there is a copy of a Judgment of the Hon. Mr. Justice Gale and I would suggest that we follow the procedure of yesterday and take this report as read. Does that meet with the wishes of the Committee? It will be filed with the brief.

Now, then, gentlemen, is there anything arising out of page 1 in this brief?

MR. WREN: Why do you just single out Oshawa and Sudbury as to the member establishments under agreement? What is your history in Toronto?

MR. MELVILLE: The history in Toronto is on page 1 where it says that fifty per cent of our member establishments inToronto are covered by agreements whereas in Oshawa and Sudbury one hundred per cent are covered.

THE CHAIRMAN: And over seventy-five per cent of all employees in the province?

MR. MELVILLE: That is right.

MR. REAUME: May I ask one other question. The union involved in the organizing of the hotels, is it always one union or are there several?

MR. SISKIND: In your own area, Mr.Reaume, in Windsor alone there are six bargaining units representing nine establishments.

MR. REAUME: Could we have who they are?

MR. SISKIND: I have not that information in front of me but I can submit it to you in the form of an amendment.

MR. REAUME: Do you recall the whole six?

MR. SISKIND: I have not the file, but we can have it sent up.

MR. REAUME: The reason I am asking that question, do you ever have two unions or more that claim they are the appropriate people to organize in that field and then create a condition that you do not know who you should be talking to;in the union themselves maybe -- I am not saying they do, but they may be fighting among themselves in order to get a bargaining agreement in a hotel.

MR. SISKIND: I might say in our experience we have found that up until a few months ago there was a great deal of raiding by various unions as to who shall be the bargaining agent of X hotel or Z hotel. We have contracts in some hotels with the United Mineworkers, the Mining, Mill and Smelter

Workers, the Wholesale and Retail Grocers, the Bartenders, Hotel Restaurant Employees, and that is about all I can remember.

MR. JACKSON: The bartenders and hotel service employees, is that a union as such? I notice they are appearing on the 17th of October.

MR. SISKIND: I believe they are the CIO part and we have a certain number of establishments in the province.

MR. JACKSON: The majority?

MR. SISKIND: I do not believe so.

MR. MacDONALD: In other words, in some areas the industrial union has expanded in that area?

MR. SISKIND: The union which leads in the area has taken over the unionization of these particular hotels. We do not directly deal with one particular union.

MR. WREN: You have not had any overtures from the Seigniory organization?

MR. SISKIND: Not that I know of.

MR. YAREMKO: Would one establishment be dealing with more than one union?

MR. SISKIND: The Royal York Hotel, the King Edward Hotel, and the bigger hotels in some cases have two and sometimes three different unions.

MR. YAREMKO: In respect to the smaller establishments, would it be one?

MR. SISKIND: Yes, in the smaller ones.

MR. MELVILLE: There are instances of that, but they are minor. It is mostly in the bigger places where there is more than one union negotiating at any time.

THE CHAIRMAN: Anything arising out of page 2?

MR. SPOONER: Mr. Chairman, I wonder if Mr. Siskind would enlarge upon a statement down about two-thirds of the way down in the top paragraph in which he says:

> "Now, particularly, there is urgent "need for fullest maturity in labour "legislation and in the means of "discharging duties by governmental "bodies charged with administration "to retain and preserve the imperative status of full stabilization "and equal responsibility in management-union relations."

I think that is a very broad statement, or can be interpreted very broadly, and I just wonder how far you intend that statement should be taken.

MR. SISKIND: It is our intention that the statement shall be taken for everything that it says. We feel -- at the outset let me state that we in the Ontario Hotel Association recognize the fact that unions are part of the economy of the country, that we must accept them as an integral

part of our country, of our economy. We also feel that when the legislation was first enacted on behalf of labour relations that unions were in a state of birth, of growth, and they had to have certain protections from the wealthy manufacturers and industrialists who were powerful at the time. As time went on the unions became larger and stronger and they created a certain amount of independence through funds and moneys obtained from membership fees. Today we must admit that the unions are very well and substantially protected by large sums of money in reserves, and they do not need the so-called protection of the government. They have top-notch men in their top positions, men equal in calibre to the general managers of any of the large industries in our great Dominion, and they do not need the protection that the government intended when the Labour Relations Act was first created.

Those are the feelings we have embodied in this first paragraph.

MR. MacDONALD: Well, Mr. Chairman, may I ask the gentleman a question here? I was going to ask it at the end but Mr. Spooner has raised this. You may believe in unions but you want unions to be as weak as possible?

MR. SISKIND: Absolutely not; we want equity.

MR. MacDONALD: Just let me go through

your brief.

MR. SISKIND: Right.

MR. MacDONALD: On page 5, for instance, you, particularly in your reading ---

THE CHAIRMAN: Now, I would prefer we deal with this as we have dealt with others, page by page. I do not want you to think for a moment, Mr. MacDonald, that I am curtailing you.

MR. MacDONALD: Well, without referring to any particular page let me make my point. This one particular instance you take particular objection to picketing when there was no union in the place. They were seeking a collective bargaining unit. Later you present yourself as a leader of the sanctity of the individual and bolster the others who come up against the union. You are not in favour of the union security, therefore you think insecurity in the union and instability of membership is going to be a better position. I mean, I am left to only one conclusion -- if you want unions you want them as weak as possible.

MR. SISKIND: I have to disagree with you but that is your inference. We are serious and sincere in every statement we make when we point to that particular case of the one hotel that was affected. I do not want to use these particular words but I will say so in the presence of this Select Committee now, and I would suggest that

when an entity is being picketed for the purpose of getting labour recognition by a particular union and a secondary boycott is used, that is nothing but blackmail because I think two cases were pending -- negotiations between the management and the union for recognition of a particular group to represent those people working in that place, and they picketed that place.

MR. WREN: Who picketed?

MR. SISKIND: Employees of other unions.

MR. WREN: A union different to the one which was negotiating?

MR. SISKIND: No, the union that was trying to organize this particular group of members by their union. Members of their union from other establishments were picketing this place.

MR. MacDONALD: At what stage was the organizing when this picketing took place?

MR. SISKIND: During the negotiation stage, after conciliation.

MR. MacDONALD: Had they been certified?

MR. SISKIND: Yes, they had been certified, but we do not object to the picketing -- we are not objecting to the picketing in this particular brief, but we object to the fact that this man, because of the Liquor Control Act in the Province of Ontario can only obtain his product to sell from the Brewers Warehousing Company, was

subjected to the statutes where he could not buy any products and the unions in the Brewers Warehousing refused to cross the picket line, refused even to sell, where Letros agreed to go and pick up the products they refused to sell, and only when Justice Gale gave his decision did they then sell to the Letros organization. They went and obtained their products from the Liquor Control Board.

MR. MacDONALD: There are other questions I would like to ask, but I will abide by the ruling of the Chairman and do it when the page comes up.

THE CHAIRMAN: Anything on page 2? Page 3?

MR. WREN: I would like to ask the witness a question. On the 4th line of page 3 there is mention of "corrupt practices". We have heard a good deal about unfair practices but what knowledge do you have of corrupt practices? That is a rather strong term.

MR. SISKIND: Well, perhaps we should have gone to the trouble of inserting in our brief some of the -- what I am getting at ---

MR. WREN: Can you give me some examples of actual corruption that has taken place in your dealings with trade unions?

MR. SISKIND: Well, in asking that we make a distinct statement of some form of corrupt practices, I am sure I can ask your indulgence. I

can refer to some cases or I can give you exact instances, because making a statement has to be backed up and I would ask if I may be permitted to give you instances of corrupt practices at another sitting or later in the day perhaps?

MR. WREN: Well, you have made the statement "certain corrupt practices". That will be all right with me if the Chairman makes a ruling on it. There is a distinction between unfair practices and ---

MR. SISKIND: Yes, we are prepared to back up that statement with definite cases.

MR. MacDONALD: In this connection, Mr. Chairman, may I ask one thing? Is it true -- I meant to take this up before we got going this morning -- but is it true that a witness appearing before this Committee has immunity?

THE CHAIRMAN: Oh, yes.

MR. MacDONALD: One of the reasons why the witness may be holding back is because he is thinking of that.

MR. SISKIND: I am not concerned.

MR. MacDONALD: It may be well to declare that they do have immunity.

MR. SISKIND: I might say I am not a lawyer, I am a layman, a hotel man, and presenting this on behalf of my fellow eight hundred members. I am not a lawyer; I am not equipped to battle a

verbal battle or a duel with some very fine lawyers that may be among you, but I shall do my very best.

THE CHAIRMAN: Well, there is not going to be any duel. Do you have anybody here besides yourself and Mr. Melville who can call your office now and arrange to have this information sent up to us?

MR. MELVILLE: We would have to go out of town and bring witnesses or members of the Association, employees and members who would have to state actual cases of corrupt practices in the cases of approach to them by so-called or actual union representatives. It would be rather involved to go into actual proof before you and bring witnesses before you in this case.

THE CHAIRMAN: You have made the statement in your brief and one of the members of the Committee has raised the question as to what corrupt practices you referred to, and there was a ruling made at the beginning when this Committee first sat that any statement in your brief you should be prepared to back it up by evidence.

MR. SISKIND: If you will give us some time I am sure that we will present some cases of corrupt practices to corroborate the statement we have made on this particular page.

MR. YAREMKO: Mr. Siskind, when you refer to corrupt practices would they be the type

of corrupt practices that would affect the relationship of the union and the management or within the union itself?

MR. SISKIND: At this point I would like to say that when we use the words "corrupt practices" it does not necessarily mean within the hotel industry. This paragraph deals with unions on the overall picture in the Province of Ontario. It may mean corrupt practices within the unions where you bring to your attention practices between labour and union management or tactics used by unions in their relationship with management during the negotiations or after conciliation or during some negotiations.

MR. WREN: Mr. Chairman, just to clarify this for a moment, could I have your permission to have our counsel define in law what a corrupt practice is, what it generally means?

THE CHAIRMAN: I think so.

MR. WALSH: Corrupt practice is one in which there is corruption and corruption means where there is fraud or deception or illegality.

THE CHAIRMAN: The same term is used in connection with bribery and corruption in an election.

MR. SIKIND: May I state that illegal picketing is a corrupt practice, when it is illegal

it is a corrupt practice, and certainly we can show you numerous cases where picketing has been done illegally.

THE CHAIRMAN: That is the type of thing you are referring to?

MR. SISKIND: Misrepresentation. It has been brought to the attention of the Labour Relations Board in applying for certification on many occasions and if you want absolute instances we can produce them, where organizers have brought before the Labour Relations Board names of people ---

THE CHAIRMAN: Just a moment, please. We do not want to waste all day on this thing. If what you mean by corrupt practices is illegal picketing, that is an entirely different matter.

MR. SISKIND: It is corrupt.

THE CHAIRMAN: It is not corrupt, it is illegal.

MR. SISKIND: Anything that is illegal is corrupt.

THE CHAIRMAN: Oh, not at all.

MR. SISKIND: All right. Would you say a corrupt practice would be one where an organization ---

THE CHAIRMAN: I am not going to say what a corrupt practice would be, but have you any evidence to show that somebody has received a pay-off or been threatened with something? That

is a different matter.

MR. SISKIND: Would you consider that a corrupt practice would be where an organizer has presented before the Labour Relations Board the names of people who have signified their intention of supporting the trade union for certification purposes and then it has been found that the names were not such?

THE CHAIRMAN: That would be fraud.

MR. SISKIND: Not corrupt practice?

THE CHAIRMAN: It is fraud; it is covered by the Act.

MR. SISKIND: I would suggest you ask your legal adviser to define that. Your legal adviser just mentioned that ---

THE CHAIRMAN: Just a minute, Mr. Siskind. You are here to present a brief and to answer questions. You have competent legal counsel and you should have your counsel here with you if you are going to make statements of this kind. We are not here to offer you free legal advice.

MR. REAUME: I think you should come back.

THE CHAIRMAN: I think so, if you have anything ---

MR. SISKIND: I hope that I have not ---

THE CHAIRMAN: If you have anything to substantiate the phrase "corrupt practices" other than illegal picketing or an organizer putting in names that were not actually on the list. That is not a corrupt practice.

MR. SISKIND: You rule it is not corrupt?

THE CHAIRMAN: Well, it is covered already by the Act. Is there anything else on page 3?

MR. WREN: Yes. I will not labour this too much but in the third paragraph the witness makes another statement:

> "During the continuance of
> "every secondary boycott, the
> "business of at least one licensed
> "establishment has been effective-
> "ly destroyed."

I take from this an inference that there have been hotels put out of business through union activity. How many instances are there where hotels have been put out of business and have not been able to recover from the effect?

MR. SISKIND: Mr. Melville will answer that.

MR. MELVILLE: To add the words "have not been able to recover" does not apply, but there is one instance I can quote. From July

to November, 1956, when one hotel was closed completely due to the fact that beer was not delivered and could not be delivered. That hotel owner did not go to the courts. Negotiations have since been satisfactory and the hotel is now working under a collective agreement and is back in business, but how much their business has come back today I do not know because once you lose it it is hard to get it back.

MR. WREN: You say positively it has been effectively destroyed. I take that phrase to mean it is destroyed, it becomes a nonentity, it disappears. I have never heard of a beer parlour going broke.

THE CHAIRMAN: I know of a couple that have gone broke.

MR. WREN: But you do not know of any that as a result of trade union activity have gone out of business and remained out of business because of trade union activity?

MR. MELVILLE: Not that have remained out, no, sir.

THE CHAIRMAN: When you refer to a secondary boycott, the illustration which you have given to us, of representatives from another plant refusing to deliver the products that you require in order to stay in business because of a picket line, that is a certain establishment, is that it?

MR. SISKIND: Mr. Chairman, we can only buy our products from the Brewers Warehousing, one company, and when there is a picket line around a particular place they won't sell or deliver.

MR. YAREMKO: Mr. Siskind, is Brewers Warehousing Limited covered by a collective agreement with its employees?

MR. SISKIND: Oh, yes.

MR. WREN: Sure.

THE CHAIRMAN: Does this decision of the Honourable Mr. Justice Gale not correct that situation?

MR. SISKIND: There has not been an occasion since.

THE CHAIRMAN: It has not happened since?

MR. SISKIND: That is right.

THE CHAIRMAN: Well, it could be assumed that this has corrected that situation.

MR. SISKIND: Yes, and it should be incorporated in the Labour Relations Act.

MR. WREN: I quarrel with that. The situation is, the Judge in effect orders the Brewers Warehousing to deliver the beer but does not say anything about crossing a picket line or anything.

MR. SISKIND: Orders them to deliver and sell.

(Page 988 follows)

MR. WREN: It enabled Mr. Letros to go into the Brewers Warehouse and pick up his beer or whiskey but it does not say anything about crossing the picket line?

MR. SISKIND: Oh, no, but they refused to sell in the first instance when Letros agreed to do their own picking up.

MR. WREN: Of course, the fact that they have one source is a bad situation anywhere, but that has nothing to do with this Committee.

MR. REAUME: That is right.

THE CHAIRMAN: Anything else arising out of page 3? You say, Mr. Siskind, that under the Act there is absolutely no effective or enforceable remedy to deal with this situation of secondary boycott, and you are suggesting something should be done about that?

MR. SISKIND: That is right. In this particular instance, referring to our own industry, you understand.

THE CHAIRMAN: Page 4?

MR. JACKSON: Do I understand on page 4, Mr. Siskind, that the employees of the Brewers Warehousing, and I am looking about half way down the page where you say that they are covered by collective agreements, have unlawfully refused or threatened to refuse to sell or deliver supplies? Are you dealing there

with -- the hotel in question, would it be dealing with Brewers Warehousing and they in turn had heard from their employees; is that the chain that you received your information?

MR. SISKIND: The hotel in purchasing its supplies must go to the Brewers Warehouse to purchase its beer. They have their order forms supplied by the Liquor Control Board or the Liquor Licensing Board, and they go to a particular designated place, they cannot go to any Brewers Warehouse. Every hotel has a particular place to go to get its supplies. When you present the slips or order forms as prescribed by the Liquor Licence Act the Brewers Warehousing fill that out and have it delivered to the hotel. The Brewers Warehousing Company are covered by a contract with a particular union and because of labour difficulties in this particular instance the union refused to sell and deliver beer to Letros because of the picket line.

MR. JACKSON: What did management of Brewers Warehouse say about that, did they just shrug their shoulders?

MR. SISKIND: They just shrugged their shoulders.

MR. REAUME: You say that in every instance where you purchase beer you have to purchase it from the Brewers Warehousing Company?

MR. SISKIND: That is right.

MR. REAUME: Would it be better if you could purchase it right at a brewery or other agencies?

MR. SISKIND: Well, if they were covered. We are not worrying at the moment about any changes in the Liquor Control Act, we are thinking about union activities in places where ---

MR. REAUME: It may have some effect on that. You say in your brief that the Brewers Warehousing people have a monopoly?

MR. SISKIND: There is no doubt in my mind.

MR. REAUME: Then I would ask you this: do you think their having a monopoly is good or bad?

MR. SISKIND: As far as their delivery of beer is concerned I do not think it would have any effect because even if we were permitted to buy from breweries they are also well organized with their unions and there is no doubt in my mind that the same activities would take place there.

MR. MacDONALD: This is outside the purview of the Act.

MR. REAUME: It may be.

THE CHAIRMAN: We are not here to

change the Liquor Control Act or the Liquor Licence Act.

MR. REAUME: We may be asked to do that some day.

THE CHAIRMAN: We have not been asked to as yet. Anything else on page 4? Page 5 in which reference is made to the case of Letros Limited -- anything arising out of page 5? Mr. MacDonald, I think you had a reference to page 5?

MR. MacDONALD: I think it has been cleared up.

THE CHAIRMAN: Page 6?

MR. MacDONALD: Mr. Chairman, may I ask Mr. Siskind a question? I am intrigued by the fact that you come in here as a champion of those in the union who may be opposed to the union. Do you do this sort of thing on the request of those opposed to the unions? Is this a self-imposed role, or what?

MR. SISKIND: Will you state your question again?

MR. MacDONALD: You appear to come here as a champion of a union who may be opposed to it. Is this a self-imposed role or have you been asked by people who are opposed to the unions in the various establishments to come in here and speak on their behalf?

MR. SISKIND: Mr. MacDonald, if you

will notice at the end of this particular brief I signed as Chairman of the Labour Relations Committee of the Ontario Hotel Association. We try to maintain as friendly relations as we possibly can with our unions. At no time does our labour relations committee and our hotel association tell a hotel to oppose the institution of unions in their premises. We only advise them how to meet the incident when it arises. We equip them with the knowledge of how to deal with unions when the occasion arises. There are so many times that unions will come in on a little hotel that does not know the first thing about union activities, and his lawyer knows less, unless he goes to a lawyer who is actively engaged in and knows the background of labour law.

MR. MacDONALD: That is a dangerous statement with five members on the Committee ---

MR. SIKIND: You know yourself there are so many lawyers who take on labour matters and do not know anything about it, and we try to help our hotels and meet the various challenges and the organizers of the union on a footing equal to them.

MR. MacDONALD: You have not answered my question. The whole impact of this section of your brief is that you want to alter the 55 per cent so you can get a vote in all instances?

MR. SISKIND: Yes.

MR. MacDONALD: And you are presenting a case, your own phraseology at the top of page 9 is: "The sanctity of the individual's freedom." What I am asking you is, have you been requested by people in your industry who are employees who are opposed to the unions to present this kind of thing?

MR. SISKIND: No, we have not been asked that by employees or anybody in the industry, but we do feel that everyone should have the right to work and everyone should have the right to decide whether he should go on strike or not, whether he should belong to a union or not.

MR. MacDONALD: But do you think the 55 per cent of the employees have made a free expression of opinion, signing a card, countersigning and everything else -- that is not adequate?

MR. SISKIND: That is not adequate, no. We believe oftentimes people will sign a card when interviewed by the organizer in the presence of his fellow employees. He will sign the thing but if he were asked to sign the card on a secret ballot it may be different. I am not saying it would be, but it may be different, and I think we should give the men and woman in Canada, particularly in Ontario, the right

to decide by secret ballot, not just by invitation, to decide whether they want to belong to a union in the place where they work.

MR. JACKSON: Would you also say there that the signed petition which is presented in opposition is also inadequate?

MR. SISKIND: Yes, we believe that -- we feel that every instance of certification should be by a vote of representation so that labour and management would know that it was done in an open and above-board way with all the feelings of controversy that arise out of so many of these votes -- of these certifications -- that come about without any reference to management at all. Oftentimes letters will come from the Labour Relations Board to management saying that they are now certified and asking you to post this, and you are supposed to have so many days for application for certification.

MR. MacDONALD: You are off on another tack. Surely if a group of employees want to join in a union they do not have to go to management?

MR. SISKIND: No.

MR. MacDONALD: Why do you object if you get a letter saying the group of employees are now certified?

MR. SISKIND: If that is the case I

think a proper vote should be taken in secret ballot to decide the wishes of the particular group.

MR. REAUME: The point being, if 55 out of every 100 is to sign the card, countersign the card, what more do you want?

MR. SISKIND: It is our contention that oftentimes men and women will sign these cards in the presence of other employees but do not want to be counted as being away from the group. You know yourself the tactics an organizer uses. He invites them all the labour temple and lays down the offer, what labour is proposing to do in this particular establishment, and they sign.

MR. REAUME: I know all that, but they do not have a stick or an axe or a club to hit them on the head and make them sign.

MR. SISKIND: No, but if they had a chance to vote in secret their vote might be different.

MR. MacDONALD: It might be different to this extent that those who did not sign a card would be very clearly voting to get into a union.

MR. SISKIND: Quite right. It is all right as long as it is done by ballot. Why do we vote for our governments by secret ballot?

Everything of importance is by secret ballot.

THE CHAIRMAN: As I understand it all votes are by secret ballot if there is a vote.

MR. SISKIND: I would not say that.

THE CHAIRMAN: If a vote is taken.

MR. SISKIND: I have seen votes and heard of votes by labour groups where they vote by hand.

THE CHAIRMAN: You have heard? They are referring now to a vote to have a union certified.

MR. SISKIND: It is done ---

THE CHAIRMAN: The only part of it that is not done by secret ballot, as I understand it -- and correct me if I am wrong -- is if a man abstains from voting. Then his vote is considered a vote against; is that not correct? His vote is not a secret vote.

MR. SISKIND: I am not acquainted with that.

MR. REAUME: I was going to ask the following questions: Assuming that you do have a vote in every instance, if cards have been signed, the lists have been checked, would that not be a full job? It would not only apply to these people but to every vote or all of the people in the Province of Ontario. Would it not be a job which you could not handle practically speaking?

MR. FINKELMAN: The only answer I can give is that given the staff anything of that sort is possible if it is felt that public money should be expended for that purpose. Whether it is wise or would serve a useful purpose is something on which I am not prepared at this stage to give an opinion.

MR. WREN: Your Association, Mr. Siskind -- have any of your employers ever negotiated a voluntary agreement without going to the Board at all? Has there been a case where they sat down and worked out their own problem?

MR. SISKIND: Yes.

MR. WREN: You did not find it necessary to vote, everyone agreed to it?

MR. SISKIND: There have been occasions where an organizer has come into a hotel -- not one, but a number of hotels -- and arrangements were made right there and then where the cards were signed and an agreement was drawn up and no length of time taken, but the employer signed right there and then. What happened afterwards I am not prepared to say, but they signed.

MR. MacDONALD: You think that should be precluded so a voluntary agreement will be ruled out and they must have a vote?

MR. MELVILLE: It says in the brief that where the employer waives the vote he may be allowed to do so, or where he is satisfied. We are only asking for a vote where the employer is not satisfied that everything was done according to regulations.

MR. REAUME: But he may go on and on and raise any objection at all that he is not satisfied. You would not find one out of one hundred that was.

MR. SISKIND: So we suggest a vote be taken to satisfy him. If it is going to apply in every industry, of course ---

MR. MELVILLE: We suggest certification by a bargaining agency controls a person's life to a great extent. If they are working under that agreement, almost to the extent that the Government of the Province of Ontario controls your life. I do not think there is any question that they choose the Government of Ontario any other way than by secret ballot. Therefore, why cannot it choose the people who are going to negotiate for them for their livelihood? They are actually closer to them and more directly connected with them than the Province of Ontario or their municipality.

THE CHAIRMAN: As I understand in these cases the arrangements that are made for a vote -- the Board scrupulously looks into the

situation where it is being made, they look for confirmatory evidence and everything else. What more protection you want or what objection you have to it, I, as a member of this Committee, cannot see.

MR. WREN: The brief also suggests any petitions which are submitted to the Board in opposition to certification are to all intents and purposes ignored. Well, according to the information we hve had previously that is just not so.

MR. SISKIND: Where does it say that?

MR. MELVILLE: Page 7.

MR. WREN: You leave the inference there if a group of employees sign a petition unless pesonal representation is made the Board ignores it. My understanding of that is this, if I understand the evidence of the Chairman of the Labour Relations Board correctly -- he looks at the names of those people on a petition and if a name appearing on that petition also appears as one of those who has signified that he is a union member by depositing his dollar and so on, it is taken into consideration and to all intents and purposes he is struck off the eligible list.

MR. SIKIND: No, sir.

THE CHAIRMAN: Confirmatory evidence

is sought.

MR. FINKELMAN: When a petition is filed in opposition to an application we require the people filing the objection to attend so that they can be examined with a view to determining whether it is an expression of their own free will, whether the legend at the top of the document is all right, whether there was employer interference and so on. In the same way we have to prove the status of unions when they first appear before the Board, and if they do not appear we have no way of doing that.

MR. MacDONALD: Do they all have to attend?

MR. FINKELMAN: No, the persons who were formulating it are required to attend.

MR. MacDONALD: Perhaps I was wrong but I got the implication it was everybody.

MR. FINKELMAN: No, they appoint an agent and he comes down and tells us the facts and gives us information; depending on the circumstances it may be under oath or on the basis of non-sworn testimony. We have instances where we require that testimony to be given under oath, and other instances in which evidence is given merely by statement without the witness being sworn. The Board has to satisfy itself that the document is the wish

of the employer has not interfered and that the legend at the top when they sign is the legend that was on there at the time the document was submitted to the employees for their signature. We have found cases where there was no legend, where the legend was introduced at a later date. We have no way of knowing whether the document is valid or not until we have a witness before us who can testify as to these matters.

MR. JACKSON: Mr. Chairman, this question came up yesterday but I think it is appropriate to mention it again. Have there ever been cases when you found names on the petition and the names on the receipts identical?

MR. FINKELMAN: Oh, yes, it does happen. That is what we call an overlap.

MR. JACKSON: Where do you delete it from -- both?

MR. FINKELMAN: We do not delete it at all but a state of doubt is created and we seek confirmatory evidence.

On that may I go further and repeat something I said yesterday. Take the bargaining unit of one hundred persons -- 75 cards presented by the union as evidence of membership. A petition -- we refer to it commonly by that name; it may not be a petition, a letter or

document of some sort or a series of letters indicating opposition to an application. Quite often they are couched in that form of a petition and it shows, say, 35 names. Of those 35 names ten are not the names of persons who have signed union cards; they are merely people who have indicated their opposition to the application but do not weaken the position of the union in any way. They do not strengthen the opposition of the union in any way. The union has filed 75 cards, then ten are among the 35 others who did not sign the cards, but in addition there are 25 people who signed both dcards and the petition. Now, that is what we call the overlap. In other words, there is an overlap, a duplication of names, these 25 names.

Now, that 25 from 75 you get 50. In other words, the union has a clear membership of 50 -- does not get the 55 per cent -- and in those circumstances, if the petition is filed there will be a vote because we say as to those 25 that there is a doubt created in our minds. They have indicated they want to join the union andhave indicated they are opposed to it, and we cannot resolve that doubt ourselves merely by looking at the documentary evidence before us. We order a vote in order to obtain confirmatory evidence of the desires of the employees

MR. MacDONALD: Having heard that, is that not sufficient guarantee that those who are opposed have a right to express their view without going to the expense of a vote, Mr. Siskind?

MR. SISKIND: We still feel it is the right of every man to declare himself by secret ballot in the interests of good management and good government.

THE CHAIRMAN: Anything else on page 6? Page 7?

MR. FINKELMAN: May I be permitted to make one comment about the statements on page 7 with respect to the additional letter which is referred to which is sent to employees advising them of the nature of the requirements for appearance and so on. When an application for certification is filed with the Board a notice is sent to the employer advising him of the filing of the notice and a copy of the application is sent to him so that he is informed of the application and the bargaining union that is desired and so on and so forth, and then hs is afforded an opportunity of presenting any evidence he has in the matter.

At the same time a document is sent to the employer. It is a green form, foolscap, which is addressed to the employees, and that is

also accompanied by a copy of the application. The employer is directed to post this notice, or, in a large establishment, a number of notices at places where they are most likely to come to the attention of all the employees who may be affected by the application. In other words, Mr. Chairman, it is a form of substituted service that was devised in Ontario , and as far as I know has spread to some parts of Canada, other parts of Canada, and is used in other parts of Canada. It is not used in any place in the United States as far as I have been able to ascertain. In other words, we have been most scrupulous in bringing notice of the application to the attention of employees. We have gone far beyond any other jurisdiction with which I am acquainted, and I think I know something about a good many of them.

This notice contains a statement that appears on page 7 advising the employees of their rights, and with all due respect to Mr. Siskind, I think it is in fairly clear language. I do not take credit for having worded it; it is not my wording, but is wording that was devised by the Board and by Legislative Council when the rules were put through some years ago. Some time in 1953, I believe, after I returned to the Board, we found that some employees who

had filed letters of objection did not seem to realize that there was a requirement for attendance, or did not realize what the nature of the evidence might be, which might have to be produced before the Board at the hearing. So as an added precaution, whenever a petition comes in we write to the petitioners, the Registrar writes a letter to the petitioners and repeats this Section from Form 3 that is quoted on page 7, in other words, giving him a second notice of the same thing.

In addition to that there is a statement in the letter indicating to him the nature of the evidence that he might be required to produce and that he can appear by representation and so on. In other words, we take the precaution of making sure that no only the employees who are objecting will be able to file their objections, but advising them personally of that fact so that they cannot say we overlooked it or that the notice was taken down and they did not know about it.

I say with due respect, sir, that we have gone about as far as we can do in these proceedings to enable employees to know what their rights are.

THE CHAIRMAN: I do not think the language is extremely ambiguous as is stated on

page 7. It is clear to anybody, I would say.

MR. YAREMKO: Mr. Chairman, perhaps Mr. Siskind has just made his statement in the form of a comment. Perhaps he will be prepared to be more specific about it.

MR. SISKIND: Mr. Melville will be more specific on this.

MR. MELVILLE: In my short time on this work I have found that unless employees appear before the Board certification is almost automatic. There was a case from Hamilton quite recently where two letters were written and certification was granted. I have no doubt that it was correct in being granted but I was questioned afterwards as to why it was automatic. The two men wrote in that they did not want it, and I told them they must appear before the Board or certification is almost always granted.

We contend that the word "may" on the third line and fourth line of the green notice form could be changed to the word "must" if it is necessary for it to be there at all. I mean, I know the letter goes out to them and it says you can appear, but it must be pointed out to these employees, some of whom know practically nothing about what they are getting into, so that they know they must appear before the Board, that this is the attitude the Labour Relations Board will

take -- if they are not there following signing of a certification card then their change of mind is not taken into consideration.

THE CHAIRMAN: You think in view of what Professor Finkelman has told us that this second notice is sent to them and they are told the nature of the evidence they will be required to give, that that does not dispose of that?

MR. MELVILLE: I believe the second notice also uses the word "may"; it does not say you must appear before the Board if you want to be considered.

MR. MacDONALD: Well, on that point, Mr. Chairman, just to get this clear as to the procedure: Suppose 25 employees write letters, how do you establish, Professor Finkelman, whether or not one person who goes and says, "Now, I speak on behalf of all the others" -- you designate it as a petition?

MR. FINKELMAN: Yes.

MR. MacDONALD: Is it possible for one man to go down and say, "I speak on behalf of these 25 people who have sent in individual letters"?

MR. FINKELMAN: That happens all the time. One individual will appear and tell us that there was a meeting which authorized him to attend. Quite often a man will turn up with a document which appoints him as the agent.

MR. MacDONALD: My point was, would that document then be signed by all 25 who sent in the individual letters?

MR. FINKELMAN: Yes, that happens frequently. He may have attended a meeting or be the one who handed them letters and invited them to send them to the Board individually. There are a variety of ways in which an individual can establish that he represents the group.

MR. MacDONALD: I was just trying to get it clear as to how this person does, in effect, prove his credentials.

MR. FINKELMAN: Generally there is one document or there will be a series of documents sent in by one person, and there is no difficulty whatever in this situation.

MR. JACKSON: I think the idea here is they are trying to bring out the fact that the letters going out to these employees who have sent a petition or voiced either by letter or by petition the obligations that must accompany that letter, must accompany the rules as set down. Is that not your point? You are trying to make it more clear to these employees what they must do as well as write the letter?

MR. MELVILLE: Yes.

MR. MacDONALD: But implicit in what Mr. Finkelman has said is this fact that every

employee does not have to appear.

MR. MELVILLE: We do not contend that but the employee should be advised that either they or a representative must appear.

MR. YAREMKO: Professor Finkelman, where you get a petition or letters and no one appears, do you look at that letter or petition at all? Does the Board look at that if nobody appears? Do you consider it in any way if no one appears?

MR. FINKELMAN: It is a rather hard question to answer precisely. We certainly look at the documents that come ine, but we have to waive that document when there is a total absence of proof on how it came into existence against the fact that on the other side we have documents with money payment and counter signatures,and so on and so forth. Generally speaking, what Mr. Melville says is true. If there is no appearance, and I say generally speaking, then little weight is given to the opposition.

MR. YAREMKO: I can appreciate Mr. Melville's point, that upon reading that, that is requoted again in the letter, there may be some doubt in a person's mind because it reads:

> ". . . the Board may dispose
> "of the application without
> "further notice --- "

Which is quite clear, and then if you were to repeat that "and the Board may without considering", if we worded it to say that "any person must attend otherwise the Board will not consider the intervention" it may be clearer in that respect, if that is the intent.

MR. FINKELMAN: It may be. We have given very considerable consideration as to the wording of the letter and the document on many occasions, and the question of using the word "must" has come up and been canvassed by the Board. The feeling of the Board members has been that at the present time the substitution of the word "must" would be unwise because it looks too much like a summons to attend, and people may not want to attend; they may have signed that letter and then changed their minds again, or there may be other circumstances which influence them not to attend. I cannot say that it has been established to my satisfaction that the employees do not understand what they are doing, that this letter is not sufficient notice. Strangely enough, the objection that the letter is not clear enough is by and large made to us by employers, but I cannot recall offhand cases in which employees have told us that they did not understand that.

MR. WREN: In cases where it is mentioned here, distance and expense, let us assume

a hypothetical case, a man wanted to make his appearance here in this hearing from Red Lake, one thousand miles away, and the expense would be ridiculous. In that case would the Board consider a sworn statement from him?

MR. FINKELMAN: No, because we cannot cross-examine an affidavit. There is a difficulty there we have not yet been able to overcome. There was one case which came up this week in which employees wrote in and said they could not attend because of the distance. We have not yet decided the case. We are in a quandary as to what to do. We have considered that and considered the possibility of sending the Board out on circuit but so far we have not been able to devise any reasonable way of doing so and hearing cases in all sections of the province. There are not enough cases to warrant the setting up of a circuit but the time may come in which we would have to cover a certain area.

In, for instance, Red Lake you may go there and there will not be another case in Red Lake or within a radius of a few hundred miles for another three months.

MR. REAUME: You were mentioning an instance in Hamilton. Now if you can follow through on that one case in Hamilton, I do not know what hotel you have in mind, but you said in

that one instance there were a couple of people who wanted to object and they wrote into the Board. I wonder if you might be able to tell us how many people were in the employ of this place that you mentioned in Hamilton, how many people were involved?

MR. MELVILLE: Four -- there might have been five. I believe it was five.

MR. REAUME: Out of four how many people indicated they wanted to be members of the bargaining unit?

MR. MELVILLE: I believe there were three, possibly four. There were four places at the same time and I did not bring the records but they had indicated by signing cards and subsequently two wrote to the Board.

MR. REAUME: Out of?

MR. MELVILLE: Out of three or four that had signed and they did not appear, and maybe this employer fell over backwards but he reported to me that he was approached by one man, that he wanted to go down to Toronto and could he get a drive over and the employer told him he was on his own, he could not assist him. He was supposed to go over with a friend and he did not appear, and the certification was automatic.

7 MR. REAUME: Hamilton is only forty miles away. If the man hated the union and

wanted to make sure he was not put in he could have gotten here.

MR. MELVILLE: I do not believe the word "hate" was in his mind. His friend did not drive over and the bus was too late to make it and he said, "I won't bother." I do not think the question was that important in his mind; he had changed his mind once after thinking it over.

MR. YAREMKO: In the instance you are referring to, Mr. Finkelman, in the event the Board decides they could not go up there, would it be your practice to notify the people and tell them you are sorry you could not go up but it would be necessary for them to make representations, to attend here. Would there be a follow-up letter?

MR. FINKELMAN: In that particular case, as a matterof fact, when we received this letter the Board had quite a session on what course ought to be followed, and we despatched a wire to them in sufficient time to enable them to come down. Up to the present time it has been the practice of the Board to require attendance. We could not indicate to them what other conclusion we might come to. In other words, we advised them that what the conclusions might be was up to them because we could not reach a conclusion in the time that would be from the

moment we received the letter until the case came up, so they were made aware of the situation.

MR. MacDONALD: Professor Finkelman, you have outlined the difficulties involved in the Labour Board going on circuit. Are those cases numerous enough that it would be worth while, in your opinion, considering the proposition of financing some of them to come down? I mean paying a representative to come down, or would that open the way to such an abuse that it would not be a wise expenditure of public funds?

MR. FINKELMAN: I cannot say anything about the wisdom or non-wisdom of the expenditure of public funds. The members of the Legislature are better able to answer that question, but I will say we gave consideration to it and we felt if we established that rule,that anyone coming down would be financed, we would be in difficulty. Our budget certainly would not carry it.

MR. MacDONALD: Your present budget?

MR. FINKELMAN: Or any budget we are likely to get.

MR. SPOONER: May I ask a question of Professor Finkelman, Mr. Chairman? Would it be possible for you to consider the same system as the Ontario Municipal Board where one member of the Board can hold hearings? How many of your Board constitute a quorum?

MR. FINKELMAN: Three members constitute a quorum, one member representing employees, one member representing the employer, and the chairman. A panel of three persons going up to hear a case in that area that has already been mentioned, in Red Lake, would mean that particular panel would be out of commission for, say, a week.

MR. WREN: Try to convince the provincial auditor of that.

MR. YAREMKO: How about something similar to a commission?

MR. FINKELMAN: The members of the Board have never agreed to accept commission evidence in matters involving the status of a trade union or the validity of a commission. That has been the practice of the Board members going back to 1944. The matter has been canvassed on many occasions and it has been felt that the success of the Board has been in the fact that in Ontario, as distinguished from every other jurisdiction, all cases are heard by the Board itself. It is not an agent of the Board.

Some aspects of the case may be referred to an Examiner but the case itself is heard by the Board itself in every case. This imposes a very heavy burden on the Board but that has been going on since 1944 and all the members of the Board, both past and present -- and I think I can speak

for every one of them -- feel that a departure from that principle would do a great deal of harm to the cause of labour relations. I think the respect our Board enjoys -- and I say that with all due modesty -- has been because we hear every case. In other words, any person who wants to appear before the Board itself and argue his case or his problem before the Board is free to do so, it is not a favour, it is a right that he has, and most people do appear before the Board. There are many, many cases where employers come in merely to say that they have no objection to the application and they appear before the Board to say that, and we welcome their participation because it helps in the administration of the legislation.

All cases are heard in public. The door is open, no cases are heard in camera, and the public is invited, the press is invited, and I think that has helped establish the position of the Board in this Province.

THE CHAIRMAN: Page 8, gentlemen.

MR. WREN: Mr. Chairman, on page 8 may I ask Professor Finkelman -- there is a statement about two-thirds of the way down which says:

> "Further, no application for
> "certification has ever been

"dismissed solely on the basis
"of intervention evidence."

Is that so?

MR. FINKELMAN: I am afraid I do not understand what that statement means.

MR. WREN: Well, I take it to mean that where there has been intervention, where people have opposed the application, the Board has never dismissed an application on the evidence of any opposition. Is that your meaning?

MR. MELVILLE: Our meaning is that the Board to our knowledge has never dismissed an application for certification solely on written intervention evidence without the appearance of a representative or person who is the follow-up of what we stated on page 6.

THE CHAIRMAN: Then, let us get to page 9. Page 10?

MR. MacDONALD: Mr. Chairman, perhaps I might follow up a question I asked earlier: If you have no objection to negotiating with a union that has sufficient strength, there may be some equity in the negotiations, why do you object to the proposition of a grant for union security so they have a stability of union security and membership?

MR. SISKIND: We are satisfied with that provided that they in turn can be held

responsible for any unlawful acts.

MR. MacDONALD: Oh, that is not what you say in the brief, I do not think.

MR. SISKIND: The next paragraph.

MR. MacDONALD: Yes, but I do not think the two are united. You have not in effect said you are willing to give them check-off.

MR. SISKIND: We have not said that but it implies that. We say they are entitled to check-off providing some of those funds are set aside under government supervision to be used for the purpose I intimated where unions have used illegal practices for damage purposes. That is the implication.

MR. REAUME: Do you suppose we could set up a fund on the opposite side of the fence on the part of the owners of the hotel so if they wanted to be sued it they might be able to and have the funds under the hands of the government?

MR. SISKIND: I do not believe if a hotel were sued that indemnity could not be obtained.

MR. REAUME: There might be the odd instance it could not?

MR. SISKIND: There might be.

MR. REAUME: If it is fair for one side it ought to be fair for the other side.

MR. SISKIND: Yes, absolutely right.

THE CHAIRMAN: Any discussion out of the first paragraph on page 11?

MR. REAUME: At the bottom of the page you say that the Board must be a tribunal of practical men. Is it not?

MR. SISKIND: Yes, they are.

MR. REAUME: Why do you say it must be if it is? It leaves the inference there that there is something wrong with the Board.

MR. SISKIND: Let us read further:

> "The Board must be a tribunal
> "of practical men capable of
> "expediting a heavy case load
> "involving all the numerous
> "complexities of bargaining
> "units."

MR. REAUME: Are they not?

MR. SISKIND: At the present time, yes

MR. REAUME: Well, why do you put in the word "must" if they are?

THE CHAIRMAN: I take it that is really a reason that Mr. Siskind is advancing why there should be right of appeal of a decision, because of their heavy case load.

MR. MacDONALD: May I ask Mr. Siskind this, Mr. Chairman: The Labour Relations Board was set up because of the experience or the conclusion from their experience that the courts

were not the best place to cope with the very subtle human relation problem involving industrial relations. Now, if you make the decision of the Ontario Labour Relations Board supplementary to the courts, are you not going to frustrate the other proceedings or destroy the basis on which the Board is now established?

MR. SISKIND: Well, you can trace that right back to our courts when you say, "Well, we have a competent judge and a competent jury and if they bring in a decision shouldn't we be satisfied with that?" Why should we bother in the Supreme Court or the Appeal Courts?

MR. MacDONALD: There comes a day when you get to the highest court and you are stuck with it.

MR. SISKIND: Thank goodness we are in a country where we have the right to appeal. I think that is a fundamental right of every man and woman in this great country of Canada. I think it is everybody's right to appeal the decision of the Board because they can err, they can make mistakes.

MR. MacDONALD: So can the final court err.

MR. WREN: May I ask a question of Professor Finkelman? Is it not true that you

can take the decision before the Board -- you can appeal it?

MR. FINKELMAN: That is right.

MR. SISKIND: With certain limitations.

MR. WREN: It does not matter, his rights are protected and it can go to a higher court.

MR. SISKIND: Yes.

MR. JACKSON: Then, you can appeal, without going into the glossary of terms.

MR. FINKELMAN: There is a distinction between appeal and review. There is no avenue for appeal notwithstanding the provisions in the Act. There is an avenue for review by the courts.

THE CHAIRMAN: Well, it is your representation, Mr. Siskind, that any decision of the Ontario Labour Relations Board should be subject to appeal by the Court of Appeal?

8 MR. SISKIND: Yes.

MR. SPOONER: May I ask the witness, Mr. Chairman, if he would care to elaborate on what cases he has in mind? Is he thinking particularly of union certification?

MR. SISKIND: We are thinking of nothing in particular other than justice, British justice, the right to appeal.

THE CHAIRMAN: If your lawyer thinks in his opinion the Board is wrong you think you

should have the right to appeal?

MR. SISKIND: That is right.

THE CHAIRMAN: A great thing for the legal profession.

MR. MacDONALD: I am not certain it is a great thing for justice necessarily.

MR. SISKIND: I think we will have the support of the Bar Association.

THE CHAIRMAN: Please, gentlemen, let us keep it above the belt.

Thank you very much, Mr. S skind and Mr. Melville, and if you have any of these other instances to which you made reference that you would care to bring to our attention if you will get in touch with our Secretary we will be very glad to hear from you at a later date.

MR. SISKIND: Mr. Chairman, if in any way at all I have overstepped the line I apologize. I was just trying to present our problems to you in an effective way, and we certainly thank you for your very kind consideration.

THE CHAIRMAN: Thank you very much.

The next brief is to be presented by The Ontario Provincial Joint Council No. 22 of Building Service Employee Union. Please proceed, Mr. Hearn.

MR. HEARN: Mr. Chairman, in the presentation of our brief we would like to make this

preliminary opening remark. The brief will contain and does contain a limited number of proposed changes that we view as an organization to be not only helpful to us but which we have tried to view with responsibility to the general public. We base this brief on not only the narrow experience of the Province of Ontario but on a broad functioning knowledge of almost every province in the Dominion of Canada.

You will note as we go through the brief that we make very few suggested changes in the Act, and this is for the reason that basically we have found in operating under the various Acts in the Dominion of Canada that the province possessed with the Act with which we can find least criticism is the Act in the Province of Ontario.

It is for this reason, sir, that we have limited our changes, because we feel that the changes which we are going to offer are beneficial and we believe that if they were incorporated it would in fact make some very fine improvements in the Labour Relations Act of this province.

THE CHAIRMAN: Thank you very much.

MR. SPOONER: Before the witness begins, I wonder if I might ask an explanation of the type of work that your people do.

MR. HEARN: Yes, sir. Introducing ourselves in the brief we mention the type of occupations that we cover.

---Mr. Hearn reads first six pages of brief.

THE CHAIRMAN: It is now one o'clock and we will adjourn until two o'clock. Please be on time.

---The Committee adjoured at 1.00 p.m.

Wed.
Labour
J.F.

---- The hearing resumed at 2 p.m.

THE CHAIRMAN: Gentlemen, it is now 2 o'clock. We are at page 7. Mr. Hearn is presenting the brief.

MR. HEARN: Continuing, sir, with the submission. (Mr. Hearn continues reading the brief; page 7, submission).

THE CHAIRMAN: Thank you very much, Mr. Hearn. Gentlemen, attached to the brief there is an appendix containing some correspondence of some eight pages and I would now direct that this appendix be made part of the brief and be filed with the brief as an exhibit. Are there any questions arising out of page 1?

MR. REAUME: I would like to ask Mr. Hearn a question. You do not organize in any other fields other than hospitals and homes -- institutions?

MR. HEARN: We operate in the office building field and other services outside of hospitals.

MR. REAUME: Outside of hospitals, that would be office buildings and apartment house buildings?

MR. REAUME: Oh yes, we have many of those. We have cemeteries, office buildings, apartment houses, a laundry, a casket company,

school boards.

MR. REAUME: You have cemeteries too?

MR. HEARN: Yes.

MR. REAUME: They must be an active group.

MR. HEARN: We have employees of the cemeteries.

MR. WREN: Mr. Chairman, may I ask the witness a question? Generally speaking, Mr. Hearn, if your avenue of negotiations were to be widened would it leave you open to raids by other unions? Under such circumstances do you think other unions would feel that they would like to get in on it?

MR. HEARN: We have signed working agreements as to where our jurisdiction comes. We have an agreement with the Labour Congress which covers our jurisdiction and covers arbitration of disputes which eliminates the possibility of a situation which you have suggested.

MR. WREN: Then you do not think your union would be subject to raiding?

MR. HEARN: We feel that problem could be handled within the framework of Congress.

MR. MacDONALD: Is it a geographical line of distinction or a distinction between the

various jobs?

MR. HEARN: We have jursidction over all institutions which are not owned by a municipal government or by municipalities. The agreement is a very recent one; July 30, this year. It has long been a bone of contention between national unions and our own organization and this year we were able to sit down with the officers of Congress and work out this jurisdiction.

MR. MacDONALD: Mr. Hearn, I would like to ask you whether in view of the organization you are restricted to municipally-owned institutions?

MR. HEARN: In view of the organization we do not touch municipally-owned hospitals. That is handled by the National Union of Public Service Employees or the Union of Public Service Employees so, I understand, are merging into one organization.

MR. SPOONER: Are you going out of the municipal hospital field?

MR. HEARN: We will be faced with the problem of the possibility of removal under Section 78.

MR. REAUME: In the many instances of hospitals not owned by the city, do you have all the people who work in the hospitals, such as ward aids and others?

MR. HEARN: Yes.

MR. REAUME: What do you do when you come to the people firing the boiler? I suppose that is handled by another union?

MR. HEARN: Because we are basically an industrial union, we take everyone in a non-professional capacity including boiler room workers unless the operating engineers are in there. We do try to co-operate with the operating engineers and we direct them to their own people when we can. In some instances we do have these people and in other instances the operating engineers have them.

MR. REAUME: Is there a scale of basic rate of pay over the whole province; is there one established now or are you trying to get one. For instance, for a ward aid or someone comparable to a ward aid? In other words, are there agreements that are pretty much the same in Windsor as they are in Toronto, Hamilton or Ottawa?

MR. HEARN: I would say it basically depends on the geographical area. They are not. Windsor may be higher, because it is a higher rate area and in other places the rates may be lower.

MR. REAUME: I would like to say this:

It is an important point. Is not the work of the ward aid in Ottawa qually as important as in Windsor. I can understand there may be a higher rate of pay in Windsor established by the automobile workers which might have some effect.

MR. WREN: Windsor is an expensive place to live.

MR. REAUME: It is not any more expensive than here. I find that expenses here are high even though we do not pay the expenses.

MR. ROWNTREE: Mr. Chairman, I should like to say to Mr. Reaume he is into another question which is the equalization of wage rates in various areas. That is a subject of its own.

MR. REAUME: I think it is a proper question and I think it is covered by the Terms of Reference of the Act.

THE CHAIRMAN: The Labour Relations Act does not set rates of pay.

MR. REAUME: What I am trying to establish is this: With his help in labour relations work, if the basic rate of pay of a war aid in Ottawa was the same as it is in Windsor because, after all, it is the very same type of work.

THE CHAIRMAN: I am afraid, Mr. Reaume, that has nothing to do with our reference here and I must rule that question is irrelevant in this discussion.

MR. REAUME: I accept your ruling, but I think it is wrong.

THE CHAIRMAN: Is there anything else, gentlemen, in the introduction in the pages from 1 to 6? If not, shall we turn to the submission starting page 7 as having to do with certification. Section 7, pages 7 to 9 --

MR. SPOONER: Mr. Chairman, before you go on past page 8 I would like to ask a question which is more out of curiosity than anything else. The rate of pay voted here is $75 per month which is certainly very low and I wonder if there are other considerations. Are these persons supplied with room or board or anything of that sort?

MR. HEARN: No, sir, we find that in some of the smaller hospitals persons are paid those wages. People such as ward aids, kitchen girls or waitresses at the tables in the employees' dining room or in the nurses' dining room.

MR. REAUME: What is the minimum wage in Ontario?

MR. HEARN: It does not apply in the case domestics.

MR. MacDONALD: Is a person working in a hospital considered a domestic?

MR. HEARN: Yes.

THE CHAIRMAN: That is, a person working as kitchen help or ward aid is considered a domestic.

MR. MacDONALD: I thought a domestic was a domestic in a private home.

MR. HEARN: And they are excluded from the Unemployment Insurance Act for that very same reason.

THE CHAIRMAN: Because they are employed in a hospital.

MR. HEARN: Yes.

MR. WREN: I would like to ask a question and perhaps Mr. Metzler could answer it for me. What is the minimum wage?

MR. METZLER: The province is divided into three zones having to do with the size of the municipality or the general conditions that prevail in the municipality. Now, I must confess that I would be guessing if I try to give you, accurately, the minimum rate of page but I will file with you a copy of the minimum wage order, certainly not later than

tomorrow morning, and I will have copies for the committee so they can see what it is.

MR. WREN: It is hard to visualize people working for that kind of money.

MR. REAUME: Mr. Chairman, I do not know whether I am out of order or not, but I was just trying to make the point in this business of zones in the province where they have different rates of pay. I want to tell you of the effect it has on a place such as Windsor where it is organized; quite highly organized. If industry, or certain types of industry can get cheaper labour that is equally as good elsewhere it has its effect upon certain types of industry moving out of an area such as Windsor. I always thought that a carpenter, if I may put it that way, can be equally as good a carpenter in Oshawa as he can in Windsor and if he is as good he ought 2 to be getting pretty much the same rate of pay, and that should apply to one who works in a hospital. Mr. Chairman, am I out of order on that?

THE CHAIRMAN: I should think you are. Mr. Reaume, that is not what we are dealing with here.

MR. MacDONALD: May I ask this question, to whom I do not know. Does our

minimum wage legislation stand on its own feet or is it an integral part of labour relations?

MR. METZLER: The Minimum Wage Act is administered by the Minister of Labour and the orders that have been issued from the Department of Labour generally apply only to female employees. We have never in this province set a minimum wage, a minimum rate of pay for male employees.

MR. MacDONALD: Does that mean to say there are a group of people employed in this province who cannot be brought under the Labour Relations Act for union purposes and at the same time are excluded from the Minimum Wages Act?

MR. METZLER: Mr. MacDonald, what group did you have in mind?

MR. MacDONALD: Domestics.

MR. METZLER: Domestic servants, agricultural and horticultural workers are specifically excluded from the operations of the Labour Relations Act.

MR. MacDONALD: Mr. Chairman, the point I am trying to get clear is this: Does that mean they are specifically excluded from the protection of the Minimum Wages Act?

MR. METZLER: I think I am right;

I think you will find domestics are not under the Minimum Wage Act.

MR. MacDONALD: I could agree if a domestic is a domestic in a private home but if a domestic is broadened to include somebody who works in a hospital then that is a different matter.

MR. METZLER: Mr. Hearn's union does represent those employees where he has them organized and after that, I would say, the rates of pay are subject to collective bargaining.

MR. REAUME: Are the same rates of pay applicable as far as the minimum wage law is concerned to a person who is a domestic in a hospital and one who works in a home?

MR. METZLER: I would be inclined to say their rate of pay of one who works in a hospital would be subject to the minimum wage, but I would like to check that.

MR. REAUME: I would just like to say if anyone who has been in a hospital would know that a ward aid does many extra chores which a maid in your own home does not do.

MR. WREN: Mr. Chairman, so that there will be no misunderstanding, did Mr. Metzler suggest that male persons in the province of Ontario who are not under any

collective bargaining agreement do not come under the Minimum Wage Act.

MR. METZLER: There is no minimum wage for male employees in Ontario. There is one place where that could be refined, and that is where there is an industrial standard schedule in operation that would bind the area, the zone of the working conditions including a minimum rate of pay for the people employed in specific occupations in that particular industry. They would have to receive a minimum fixed by the schedule.

MR. WREN: Now I can understand why one employer grinned at me when I told him I would tell his employees to write to the Department.

MR. YAREMKO: Mr. Chairman, could we clear up this word domestics in relation to employment in the hospitals? Do the employees in these hospitals in certain classifications come under the definition of domestics?

MR. HEARN: They come under domestic type of work. They are not specifically classed as domestics and they are not unspecifically classed as domestics.

MR. YAREMKO: Are they or are they not under the Act?

MR. METZLER: They are not under the Act.

MR. FINKELMAN: The term domestic appears in a number of the statutes in Ontario, and the courts have held in a case in connection with the Workmen's Compensation Act some years ago -- I cannot recall the name of the case, but I can probably refer you to it -- the term domestic covered a person doing any type of domestic work whether it be in a home, in a hospital or anywhere else. As far as the Labour Relations Act is concerned the exemption or exclusion of domestics from the Act is spelled out in detail. It says, "-- any domestic employed in a private home --." So, as far as the Labour Relations Act is concerned any person doing domestic type of work in a hospital or institution of any kind would be covered by the legislation. I can only refer you to the decision by the courts which was the Norton Palmer case, I think it was a hotel case, in the thirties and it was under the Workmen's Compensation at that time.

MR. WREN: Mr. Hearn, I would like to ask you if your group has ever checked whether they do come under the Minimum Wage Act?

MR. HEARN: We do not come under the Minimum Wage Act. We do come under Workmen's Compensation; we do come under the Labour Relations Act; but we do not come under the Minimum Wage Act.

MR. YAREMKO: Then you do not come under the Unemployment Insurance Act either?

MR. HEARN: That is right.

MR. WREN: The Department suggests you do.

MR. HEARN: It is according to the definition of the Act under which you are operating?

MR. WREN: Do you ever apply to the Minimum Wage Board to see if any of those cases come under that Act?

MR. HEARN: Yes, and we have been told we do not come under the Act.

MR. ROWNTREE: By virtue of 78?

MR. HEARN: Because hospitals are not covered under the Act.

MR. METZLER: That might very well be.

MR. YAREMKO: Probably under the Minimum Wage Act the definition is not specific: It just says -- any domestic -- without the addition of the words employed in a private home.

MR. HEARN: I think you will find the Act specifically excludes hospital people. I am not positive, but I think you will find that it does.

MR. MacDONALD: If you broaden the word domestic it would include anybody doing work comparable to the work done in the home which would include the people cleaning this building. There is no difference scrubbing a floor here and scrubbing a floor in a home.

MR. ROWNTREE: It seems to me it is a matter of jurisdiction. One union says we are going to include domestic help and another union says they are a maintenance group. It is a problem of jurisdiction.

THE CHAIRMAN: Anything else on Section 7; pages 7 to 12?

MR. WREN: On page 12 there is a statement made in the first paragraph, the second sentence: "Yet the employer as has been suspected in many cases and even proven in some, lends financial assistance to the submitting of these petitions, pays legal fees for solicitors to attend on behalf of the interveners, and in general contributes financial and other support to the formation of this opposition." Mr. Hearn, do you know of specific cases where an

employer has done so and it has been made known to the Labour Relations Board?

MR. HEARN: The difficulty is, we may know about it but the question is to try and get an employee to come forward to state the facts that there has been employer intervention. It is a difficult thing to get people to come down and to get people to talk in this regard, but I believe there have been cases before the Board that have shown where there has been assistance given.

MR. WREN: What was the basis of those cases?

MR. HEARN: The basis of employer interference.

MR. YAREMKO: It might appear on reading the Act that there is a double standard, but in actual practice has this double standard worked any hardship on the unions that have applied for certification?

MR. HEARN: To this extent: If a union is required to get these documents, and again I emphasize we do not object to the procuring of these documents, but we think it is basically a very unfair situation. Many people will sign a petition so long as they do not have to sign an application card or countersign a receipt. We could organize

or countersign a receipt. We could organize thousands of people if we could just approach them with a piece of paper and get them to sign their names and then you can attach almost 3 anything to that piece of paper. I think there is a double standard exists. It is unfair. Our contention is that these people should be made to do something more than just sign their name; possibly pay money or deposit money with their affidavit and if the Board should later decide to return the money, that is a decision that is up to them. They should be made to conform to the same rules as the employees and this would indicate their objection against the union is made in good faith.

MR. WREN: If there is no actual knowledge of employer interference but just a straight case of objection not inspired by the employer then would it not just be a matter of resigning?

MR. HEARN: I leave it with you: Do you believe any employee on their own would come from Fort William, say, to support an intervention charge and pay his own expenses and if not who pays the shot?

MR. WREN: I would say it could happen that they would come.

MR. MacDONALD: We might consider this when we are trying to figure out where you

are going to get the necessary advances without getting them from the source Mr. Hearn has suggested here: If this group of people were forced to pay a certain amount of money when signing cards. If the union wants to do it they get the initial advance, to a degree at least, from the $1 they collect. The others, too, would at least have money to send their representative down to the Board to speak on their behalf if they had to pay the $1 as part of their expression of opposition. It seems to me that this is the most conclusive opinion on this problem that we have had.

MR. SPOONER: Mr. Hearn, is it not true that you have to determine whether or not the petitioners who are against the application are quite satisfied with the status quo. The applicants are persons who are putting up the money. How far can you carry them? Now, may I ask this question: Do all applicants appear before the Board on petitions?

MR. HEARN: Yes. If the union does not appear the case is dismissed. If we were to bring all the applicants down it might close an institution down for two days and if they were coming down from, say, the Lakehead it would be a great expense.

MR. SPOONER: And yet you suggest

that all the employers should come down.

MR. HEARN: I did not want to leave that inference.

MR. SPOONER: At the bottom of page 11: "But the other standard is an employee desiring to object may do so by merely signing a petition and having someone appear on their behalf before the Board." Is that not the same position as an applicant who is represented by a bargaining committee or a committee of four
4 employees or by a central organization?

MR. HEARN: It is not a matter of having representation at the Board but the fact that the same standard is not being met in the procuring of the petition by the paying of moneys and so on. That is the double standard you are speaking about. We do not take exception to one person objecting, but when it is a group it becomes pretty obvious, even though it cannot be proved in every instance, there is some financial assistance being given to those people and there is no onus on an intervener to say there was no financial assistance given.

MR. SPOONER: Are you not forgetting the point that the petitioner may be quite satisfied with maintaining the status quo? In other words, he does not want the union.

MR. REAUME: Just following up that point, again on those lines, if the union involved wants to bring down a witness who presumably would be one of the members who had signed the card, who would pay his expenses to come down to Toronto?

MR. HEARN: The union.

MR. REAUME: Then if the employer or a person who did not want the union were to come down to Toronto would there be anything wrong with the employer paying their expenses? Your answer would be Yes.

MR. HEARN: Yes, because it is financial assistance against an application. It is interference against the Act.

THE CHAIRMAN: Once it is determined there has been any financial assistance given the petition is no longer dealt with by the Board.

MR. MacDONALD: That evidence would be pretty difficult to get. If the management, on the quiet of the week-end, calls one of the opponents of the union and gives him $500 or $1,000 to finance it, that is a pretty difficult thing to give by way of evidence.

MR. REAUME: There are often things on both sides of the fence that are difficult to prove.

MR. YAREMKO: Supposing your union were organizing a unit of 50 employees, each of them would pay $1 to become members of the union. You have $50 for the organizing procedure and the application of certification. Would that cover all the expenses involved or would there be other funds available to the union to assist in organizing this particular job?

MR. HEARN: It would all depend on the distances involved and witnesses and so on.

MR. ROWNTREE: Mr. Yaremko said the cost of organizing; would $50 be the total fund available? That is not so, is it?

MR. HEARN: I am just coming to the answer. I say it would depend largely on the geographical organization. In respect to witnesses coming to the Board and the job of conducting an organizational campaign, in some instances a group of 50 people giving $50 might well cover the cost of the organizational campaign. That is, if you do not charge the cost of a full-time organizer because he is doing other things as well.

MR. ROWNTREE: But the total funds of the union are available to back it up.

MR. HEARN: If the amount contributed is not sufficient they would then apply to the general fund of the local operating this particular

campaign and in the absence of an established local union the International or National Union who are probably financing the organizational campaign would meet the additional costs whatever they might be.

MR. JACKSON: Mr. Hearn, could I ask a question which may appear to you to be rather naive? I am really seeking information. I assume, and you can correct me if I am wrong, that your intent in organizing hospitals or public buildings is to better the working conditions of the employees in that building or in that hospital. Am I correct in that?

MR. HEARN: Yes, sir.

MR. JACKSON: I would then ask you this question: If a group object to being organized, forgetting the majority for a moment, object to being organized, I get the impression you want to make it more difficult for them to object. Am I correct in assuming that is what you want? You want to make it more difficult for them to lodge an objection?

MR. HEARN: We say the objection should be on the same basis as the application. Are they meeting the same standards? We do not care how many object, but we do feel that the same standards should apply.

MR. JACKSON: Why?

MR. HEARN: Is it not fair that they should meet the same standards as the other group do?

MR. JACKSON: I am asking you why.

MR. HEARN: In order that they meet the same standards.

MR. JACKSON: Does that mean it is the correct way of doing it?

MR. HEARN: I think what is fair for one is fair for all.

MR. JACKSON: I am not saying whether the stipulations in the Act are right or wrong or whether the card signing and other methods are the correct way of doing it. I am not suggesting that is the correct way of doing it at all, I am merely trying to get at the reason. I assume then you say, because the union are required to do it one way the people who object should do it the same way?

MR. HEARN: Either that or permit the union to organize people on the same basis as the objectors. Let the union go around and say we are in favour of having a union and if the majority sign on take it to the Board.

MR. JACKSON: For the moment I am just trying to take it away from the fact of the majority principle. I am trying to put

myself in the same position as if I did work in a hospital. Now, I do not want to belong to a union, I am quite happy, as I think Mr. Spooner brought out, with things the way they are now. I am trying to get at your reason. From what you have told me I gather your main reason is that because the union do it one way you feel the objectors should do it that way too not necessarily because it is right or wrong but because it is done that way. Is that right?

MR. HEARN: No, because experience has taught us that if people do not want a union, although they do not have to actively participate against us, they do, therefore if they are going to actively participate against us, they are not satisfied with the status quo. They want to interfere with anything that might upset the status quo. Therefore, they do certain things to prevent the union from carrying on its activities. In the case of an employee who sits back and does nothing, we have no quarrel with that person, but if they then go out of their way to upset the wishes of the majority they should be required to meet the same standards.

THE CHAIRMAN: Where would that place you with the closed shop?

MR. HEARN: I do not want to talk

about the closed shop.

THE CHAIRMAN: We are not asking for your opinion; what is the opinion of your group?

MR. ROWNTREE: What do you say about the closed shop?

MR. HEARN: Our organization has nothing, at this moment, to say about the closed shop.

MR. ROWNTREE: You are here before this Committee and this statement has not been made as a matter of record and I think it is a good time to pursue it andput it on the record. I speak for myself and with deference to you, Mr. Chairman. Mr. Hearn, one of the purposes of cross-examining of briefs before committees and commissions, such as this, is to test the validity of those submissions; not only the validity of those submissions as presented but in relation to other submissions which have been made. It has been stated, Mr. Hearn, that anyone cross-examining or asking questions about a brief might well be described as "the devil's adjutant", and the only way we can ascertain the validity or merits of your brief is to ask questions of the other side and I may say the same question as far as I am concerned, will be taken to management when they come before us. So you must understand we

are all here to try and get the full picture and I do say we have the right to say to you why you are here and I claim it, to ask you what your views are in relation to these theories and proposals that are put before us so I again put the question to you: What is your view, Mr. Hearn, of the arguments for a closed shop on the one hand and secondly, in respect to the questions which have been put to you a moment ago by other members of the committee.

MR. MacDONALD: Let us make this clear: Mr. Hearn is equally free to say, I personally have an opinion, but I do not choose to express myself on a closed shop.

MR. YAREMKO: He also has said he has no views.

MR. MacDONALD: Then that is the answer.

MR. ROWNTREE: He has incorporated the brief of the Ontario Labour Federation and has gone to considerable length to comment on that brief so far as it concerns his own organization.

MR. YAREMKO: He has just stated he has no views.

MR. ROWNTREE: He said, at the moment he does not care to express any, as I understood it. Mr. Hearn, is that your answer?

MR. HEARN: If there is insistence that I give an answer Iwill gladly give an answer.

MR. MacDONALD: You do not have to, Mr. Hearn.

THE CHAIRMAN: If Mr. Hearn wishes to answer he may do so.

MR. MacDONALD: He has said if we insist.

THE CHAIRMAN: I would gather from the calibre of the intelligence of this witness that he requires no assistance from anyone.

MR. MacDONALD: He does not have to answer if he does not want to.

MR. HEARN: Our view on the closed shop is this: a union shop is either international or national and is an autonomous body free to operate within the industry as they may see fit, and it is not for another organization to interfere with their autonomous rights or to interfere with the policy of that organization. We are on record before many Conciliation Boards where we have stated we believe in the case of the hospital employees a closed shop would be an unfair situation. We do not believe that it is unfair to say to new employees coming into the industry that they shall pay dues to the union as a condition of their employment for the benefits

which they shall enjoy from the union.

THE CHAIRMAN: That is your answer; it is very definite.

MR. MacDONALD: At the top of page 10 of your brief you say if there is no objection from either the union or the employees or management, you suggest we refer to a situation which existed between the year 1944 and 1948 when an examiner could be appointed to check the union cards against the employer's payroll and where a majority is established, the union would receive certification without public hearing. How could you find out if there were any objections if you do not have a public hearing?

THE CHAIRMAN: You heard it expressed this morning, Mr. Hearn, that we wish to give you every opportunity for the expression of opinion.

MR. HEARN: Under the regulations there are specific time limits within which people may voice an objection. If there was no reply within the limit set by the Act, the Board would proceed under the regulations.

MR. MacDONALD: Would it be fair to ask if this would ignore certain difficulties in administration?

MR. FINKELMAN: I would like to make

a statement in answer to Mr. Hearn: The procedure to which Mr. Hearn referred was a procedure which operated, certainly, about 1945. At that time it was impossible to get the Board together for a lengthy period; they were sitting one or two days a week. At that time the examiner checked the cards against the payroll and sent out reports and if no exception was taken there was a conclusion of the case without any hearing. However, the cases at that time took a much longer period of time to process because the application allowed for a certain period of time in which objections could be filed. After that time had elapsed an examiner would be appointed and the examiner would go out and do the checking and various reports were submitted to the parties and a further period of time had to elapse before the case had to be concluded because it was quite conceivable that objections might be filed against the report. Under our present system of operation wherein we hear cases two weeks from the date filed, it is impossible to use the examiner system that we used in the past and still maintain those time limits. If we have to post a report and wait until until a certain time has elapsed to find out if there are going to be any objections then the minimum time before an examiner could be appointed would be two weeks. A year ago last

summer, because of the tremendous increase in the number of cases, we did try an experiment again with the examiner system and we found that it did not work as it lengthened the time taken and the experiment was primarily taken to see if we could cut it down. It was also the unanimous feeling of all the Members of the Board that the personal touch we had with the people coming before the Board was lost when you produced an examiner. The parties had their records scrutinized and there were serious objections taken to that procedure by the Board Members after it had been in operation for about a month.

MR. YAREMKO: On page 11 is the simple majority question. Mr. Hearn, would you now prefer, as a union organizer to be in a position where you have at least 55 per cent, or more, of the employees rather than going into a shop with as close a majority say of 51 per cent as against 49. Would that lead to good industrial relationship if the difference were that slight.

MR. HEARN: I believe that question can be best answered in this manner: Any intelligent organization wants to have as strong a representation as possible. However, it is recognized in our democratic society the majority shall rule. We say, whatever is the commonly

accepted practice in our society should be followed in this instance. We say that a common majority or a simple majority should be sufficient in both the case of certification and the case of representation through votes.

MR. YAREMKO: Is it possible to provide that some norm be established? Under the Companies Act there are certain things which the company can do only if there is a vote of at least 66 per cent of the shareholders. I do not have the Act before me, but I believe there are other instances where more than a simple majority is required. I know it is often stated even in our own higher governing bodies that a simple majority carried, but that does not mean that it will work out with the best results.

MR. MacDONALD: Hear, hear.

MR. REAUME: How true.

MR. YAREMKO: If a system were to be devised where a government should not take office without at least having 55 per cent of the votes and that no government should be formed until then, it would probably be that a government made up of 55 per cent of the votes would have greater stability as a government than one with a bare majority. A government with a bare majority creates a position that is very unstable and it does not necessarily add

to good government to have a government as unstable as all that.

MR. HEARN: But you might have no government if you had to get 55 per cent.

MR. MacDONALD: Nowhere in the Companies Act is it suggested they have to get 66 per cent to get into existence.

MR. HEARN: If you offer yourself to represent the constituents in your riding I can imagine you would like to have as large a vote as you can. However, a simple majority will put you in to represent that constituency. Likewise with a union. We have a representation group and if we produce a simple majority we should be able to represent the people.

MR. YAREMKO: But my position would be far more stable if I could have 55 per cent.

MR. HEARN: No doubt it would and ours would be as well.

MR. MacDONALD: But his position would be non-existent if he did not have 51 per cent.

MR. YAREMKO: But there would not be anyone else in that position either.

MR. HEARN: The Chairman of the Labour Relations Board is here and I think he will agree with me when I say that I think

experience would show that in 99 per cent of the cases our organization have ever taken before the Board we have had a very substantial majority in excess of 55 per cent.

MR. MacDONALD: Mr. Yaremko's argument defeats itself. He ends up by saying he was for no union.

MR. YAREMKO: No, no, that is unfair and I do not think my argument defeats itself.

THE CHAIRMAN: Gentlemen, I must digress for a moment. We have a number of briefs and we do not want to have these people coming here and waiting all day.

(Off record discussion).

MR. YAREMKO: This discussion did not bring out the answer with the information which I wanted to know because it has been indicated that in 99 per cent of the instances the union has been able to carry out these requirements.

MR. HEARN: I believe the Chairman of the Labour Relations Board would not dispute this. Ninety-nine per cent might be a large percentage factor and to clarify that I would say that in a vast majority of cases we have had a substantial majority; otherwise we just do not apply.

THE CHAIRMAN: Shall we proceed to

Section 12?

MR. JACKSON: Mr. Hearn, on page 13 of your brief, the first paragraph of the text brings out the point that management does not have to have someone from the management group present at the bargaining table. Is this not a fault in management. Are they not penalized for this?

MR. HEARN: It may be a fault of management for which they are penalized and they are penalized in more ways than one because often times it leads to misunderstanding because you cannot get the true wishes of the people you are dealing with.

MR. JACKSON: Have you a case where a man who represents management, that management does not stand behind that man?

MR. HEARN: I would not say that management does not stand behind him but he is permitted or they are permitted to interject their own personal views rather than the views of management with whom we should be dealing.

MR. JACKSON: That should work both ways.

MR. ROWNTREE: What is the difference between that situation and a situation where the business agent does the bargaining for the employees?

MR. HEARN: Only that the committee is present and the committee is there to refuse the statement if they so desire.

MR. ROWNTREE: But the committee is not experienced sufficiently in bargaining or business matters generally and the business agent, in practice, carries the lead.

MR. HEARN: Yes, he carries the lead.

MR. ROWNTREE: And whatever he says invariably goes as to strategy.

MR. HEARN: I would not say that in all cases.

MR. ROWNTREE: That is a matter of numbers and percentages; I think I would take issue on that. Let us take the position where under the Dominion Act management deals with union representatives only in a plant committee. Is that not right? That is your alternative situation.

MR. HEARN: That is what we say the situation should be here. If one side is not compelled to be present then wipe it out and let either side send who they like.

MR. ROWNTREE: I have an instance in mind where, very recently, a business agent of one of the well-known unions in negotiating an agreement under the Dominion Act for plant employees presented and insisted and forced the

company to sign an agreement whereby they paid employees monthly whereas they had, up to that time, all being paid weekly and that is a retrograde step in labour, is it not?

MR. HEARN: This can work in the opposite direction when it is not expressing the wishes of the people he represents. To get around this we would prefer to have this section of the Act changed so that we can be sure when we hear a statement from the employer that that is the employer's policy and not the personal feeling of the individual or individuals doing the bargaining.

MR. WREN: Yesterday we had an employer before us, and he did not agree with that view. He said he preferred to have someone more experienced in that line.

MR. HEARN: That is all right providing he is not interjecting his personal views.

MR. WREN: And then we heard someone say, I do not care who represents management as long as they bear with them the legal authority to sign the agreement.

MR. HEARN: That is our feeling on the matter and we cannot feel responsible for what other people may say.

MR. YAREMKO: Which is preferable; both sides sending to a table representatives

not involved themselves directly, just sending a representative, or both sides being personally there together with whatever expert assistance they might need. Which, in your opinion, is preferable?

MR. HEARN: The latter of your suggestion is preferable in our opinion.

MR. MacDONALD: Have you any unions that are so small that you have the problem of picking and choosing from their number the person who can represent them for fear of victimization by management because he is willing to go on a bargaining committee.

MR. HEARN: We have heard of no victimization of members of a bargaining committee.

MR. MacDONALD: Is that because you are so big?

MR. HEARN: We have never had an instance of a person being victimized for appearing on a bargaining committee.

MR. REAUME: I do not think that is so important. We know when a bargaining committee is voted into office and gets down to the business of negotiating with the employer in almost every instance there is a representative of the parent group there and he carries the lead. If any representative of the employer there wanted to victimize or take out of the hide

of the person on the committee because he was part of the committee, I do not think he would succeed. It is not only a matter of dealing with a small group of people, because there is a large union at the back of them which I think would, in every instance, stand behind the small group. There was quite a lot of discussion made on that here the other day but I do not think it is of any importance at all.

THE CHAIRMAN: Is there anything else under Section 12? Section 15, Conciliation Board, Appointment of Members.

MR. SPOONER: There is a statement in the third paragraph which reads in part: "... and that the county court judge being vulnerable to attack by public opinion has been reluctant to deal with issues involving items which can create public opinion." Can you give us some instances of that? I did not think that judges were swayed by anybody and were only swayed by the evidence before them.

MR. MacDONALD: There is a purist.

MR. HEARN: For 11 years we have been bargaining with the Toronto General Hospital on the matter of union security and in the 11 years we have had no less than six county court judges as chairmen of Conciliation Boards. We have never had one who would write a report on

union security or give us anything and they have so stated to us in a majority of cases that public opinion being what it is they were reluctant to do anything because it could only lead to a further situation of probable strike action to enforce the report and public opinion being what it is he would be swayed against making any such recommendation. This has happened time and time again.

MR. REAUME: I can agree with that. I think in many instances a judge will read the editorials in the papers before bringing down a decision.

MR. HEARN: I would like to add this as further comment on the matter of Conciliation Boards. I have had considerable experience in sitting on boards as well and find that also to be a factor in our deliberations.

THE CHAIRMAN: We are not going to have to consider that in relation to this committee in view of the fact that county court judges will not be sitting any longer.

MR. REAUME: Have they stopped?

MR. DALEY: We have had no communication.

MR. REAUME: It was in the Star and that is a good paper.

MR. HEARN: And in the Globe and Mail, too.

MR. REAUME: It said that the Minister of Justice had advised all the provinces to that effect. Certainly, I do not imagine by any stretch of the imagination he would overlook us.

MR. DALEY: He has not advised me; whether he has advised the Attorney General or not, I do not know. He has not said anything to me.

MR. MacDONALD: I do not know whether this is the place to raise this: I have had a good many union chaps come to me and say we are not in favour of having judges sit but what in Heaven's name are we going to do in the interim. I wonder if what has been stated in Ottawa is a sort of notice of what is going to be in the future to give the Department of Labour an opportunity to build up its roster of Conciliation Board chairmen.

MR. DALEY: I might say, Mr. Chairman, we have quite a roster; we could, possibly fill the bill. We do use judges but I think we could still fill the bill. It is not going to mean that all labour relations are going to cease because some judges are going to be unavailable.

7 MR. HEARN: Mr. Chairman, we would like to submit this footnote to our brief before going on to Section 78. We submit it is of even

greater importance now than even at the time of the compilation of this brief in view of the recent announcement in the newspapers of the contravention of judges sitting on these Conciliation Boards. We are now confronted with a period of time during which there is a great lack of experienced personnel. To our knowledge there is practically no one who has any experience in this matter at all and yet we are in a period of time when there are a great number of Conciliation Boards being set up and which are going to take a great deal longer because of this lack of chairmanship availability.

MR. MacDONALD: Mr. Chairman, earlier the department said they were going to give us a list of the 70-odd chairmen and it seems to me if we could have that as soon as possible, in the light of the new development at Ottawa, it would be very helpful.

THE CHAIRMAN: Mr. Metzler, may we have that list soon?

MR. METZLER: Yes, Mr. Chairman.

THE CHAIRMAN: Is there anything else on page 14? Then we will proceed on page 15, Section 78.

MR. WREN: Mr. Chairman, we have heard a great deal about Section 78 and as a point of information I would like to get one

thing clear. Perhaps you would ask someone in the Civil Service to answer this: Where does Section 78 apply? If you will let me elaborate the question just a little: Assuming that a city had concluded a collective bargaining agreement with their employees could that city subsequently pass a by-law taking them out of the Labour Relation Act after the conclusion of that agreement?

THE CHAIRMAN: Mr. Finkelman, would you answer that?

MR. FINKELMAN: A municipality can pass a by-law at any time. They can pass it before organization has started, in the midst of organization, before certification or when the certification application is before the Board, between the date of the hearing and the date when the decision of the Board is given or after the decision of the Board certifying a union. They can take their employees out of the Labour Relations Act at any stage of the negotiations, during the Labour Relations Board procedure or during the lifetime of the agreement.

MR. WREN: My colleague tells me the City of Windsor is pretty well organized.

MR. REAUME: Not pretty well, it is.

MR. WREN: May I assume that the City of Windsor could pass a notice of by-law

negating all its agreements.

MR. FINKELMAN: As the law stands, that is right.

MR. ROWNTREE: They could break an existing agreement by the passing of a by-law.

MR. FINKELMAN: They could break an existing agreement in so far as the Labour Act is concerned. All they have to do is to pass a by-law during the existence of a collective agreement and from that moment the collective agreement ceases to be a document having any validity under the Labour Relations Act. What validity that document would have outside of the Labour Relations Act, I am not prepared to say.

MR. REAUME: What was the real intent and purpose back in the old days when you made this section part of the Act?

MR. DALEY: Mr. Chairman, could I, perhaps, review that situation.

THE CHAIRMAN: Yes, Mr. Daley.

MR. MacDONALD: Well, that is precisely the question I asked on some earlier occasion and got ruled out of order.

THE CHAIRMAN: Mr. MacDonald, if you wish to be a party to this committee, you will please allow it to proceed. This is a matter we discussed during the luncheon adjournment. If you continue in this way you will place

the committee in a position where it cannot effectively do its work.

MR. MacDONALD: I am simply drawing it to your attention that I have asked this same question on an earlier occasion and I was ruled out of order.

THE CHAIRMAN: Very well, if that is the stand you take I rule the Minister cannot answer this question and you cannot blame anyone but yourself for not having received the information.

MR. MacDONALD: Then why was I ruled out of order?

THE CHAIRMAN: You are not contributing to the study of the Labour Relations Act by making those comments.

MR. MacDONALD: Let Mr. Daley make his explanation but there are certainly two sets of standards here.

THE CHAIRMAN: One minute you say you want to hear the explanation and then in the next breath you say, but you over-ruled me.

MR. REAUME: As far as I know it is the first time we have dealt with this matter.

MR. MacDONALD: Do you say that I am responsible that this information is being withheld? It is simply that you are now

the victim of your own wrong ruling in the first instance. If you are going to change your ruling now I not only do not object but I am in favour of it and do not blame me.

MR. ROWNTREE: Let us get on with the job.

MR. REAUME: I did not hear Mr. MacDonald ask any questions about Section 78.

MR. MacDONALD: I asked in an earlier session about the check-off under Section 78, and I was told I could not ask the Minister.

THE CHAIRMAN: Mr. MacDonald, I told you and it was so upheld by the Committee that you could not ask the Minister anything as to Government policy.

MR. WREN: On a point of order, the Minister was not asked a question; Mr. Reaume directed a question to someone in the Department and the Minister volunteered to make the statement. I do not know why Mr. MacDonald would make an objection to that.

MR. MacDONALD: In the past --.

THE CHAIRMAN: Mr. MacDonald, that will be enough. Dictator or no dictator -- Mr. Daley, if you care to make a statement, we will be very pleased to hear it.

MR. MacDONALD: That is another change of ruling.

MR. DALEY: I wish to make this statement

in the hopes that it might be of some help. When the Act was put into effect in 1943 or 1944 municipal employees were not covered by the Act at all. Then an amendment came about later so that all municipal employees were included in the Act unless they were taken out by a by-law passed by the elected representatives of the municipality. As I see it, and I have argued it and I have stated it before so it is not new here, I believe it is very unwise for a municipal government to take their employees out from under the Act. However, they are the duly elected representatives from the municipality and these employees are their employees. Even though they have the right to deal with their employees I do not think they should be taken away and that they should have some say in the matter. In cases where a municipal government has deemed it advisable to take their employees out of the Act they have done so. Our experience is, I just forget the figure, that the number of municipal governments that are availing themselves of this section is lessening. As of now there are not very many who are availing themselves of the privilege of taking their employees out from under the Act. Some that did that, such as the City of Toronto, have come back in.

They changed their minds and deemed it advisable to put them back in. I suppose that an organization such as Mr. Hearn represents would have occasional difficulty with that but I do not think it is very prevailing in this province now. Generally, municipal councils have accepted the legislation and permit their employees to organize.

MR. YAREMKO: But presently the only recourse, once a municipality has passed a by-law, is to bring public pressure to bear on council to repeal that by-law.

MR. REAUME: I think the one thing that is unfair about it, first of all you say anybody can join the union of their own choice, then when they make an attempt to join and bargain, council has the right to say they come under the Act or out of the Act and the unfortunate part about it, as I see it, is that one group of people sitting as aldermen or mayor might enter into an agreement with the people who work for the city which is felt to be a fair and equitable agreement and then those people exit from the scene as they are all bound to do in time and another group of people come in and take them out from under the Act and that agreement is out the window. If that kind of an arrangement is conducive to good relationship

between employee and employer, then I am wrong. I think this section is one that causes more argument and trouble than any other. There is an instance up our way now where the county is making an effort to hide behind this section of the Act. It is perfectly evident that the employees of the county want to join the union; they want to bargain with the county and the county have put every obstacle in their way that they can possibly put in their way.

MR. DALEY: Let me make it clear, I am not arguing for or against; I just want to bring the attention of the committee to the present situation.

MR. YAREMKO: Would it be possible to get the statistics for the committee on the exact number of such by-laws in existence?

8 MR. FINKELMAN: We could get the number of by-laws and cases which have come before the Board but it would, of course, be impossible for us to canvass all the municipalities to find out whether they have or have not passed by-laws. We can give you the list of the number of cases which have come before the Board for certification or conciliation in which a by-law has been passed, say, within the last two years.

MR. YAREMKO: Let me put the question further: Would it be possible for you to provide us with those statistics and then if we could get

the Department of Municipal Affairs to make an inquiry as to the other statistics because Mr. Daley says the number is lessening but those who are presenting the briefs before us leave the inference it is being used more and more. I think the only way we can really solve the problem is to have a statistical survey made.

MR. FINKELMAN: I am afraid it would be impossible for the Department of Municipal Affairs to conduct such a survey because in municipal affairs every Board of Commission is in itself a municipality. It would therefore be necessary to find out whether a Parks Board, Library Board, Board of Health, Hospital Board and all sorts of subsidiary institutions have or have not passed by-laws. It may be that the Department of Municipal Affairs would undertake such a survey, but I hardly think they are likely to do so.

MR. YAREMKO: I did not realize the scope was so wide.

MR. FINKELMAN: The scope is exceedingly wide. May I say, in support of what the Minister has said, in the last two years we have found a number of cases in which a by-law has been passed and then it has come to our attention either directly in a hearing or through the grapevine that the by-law has been repealed and that

the municipality is again under the legislation. I do not know what municipality Mr. Reaume was referring to, if it is the County of Essex I might say that the Roads or Works Department initially passed a by-law and the application of certification of the union was thereupon discontinued. At one time they marked it dismissed, but in the last few years we have changed our formula and so, by reason of the passing of the by-law, the case will not be processed further simply for statistical reasons and to indicate the real reason for dismissal. The Essex municipality referred to by Mr. Reaume came to see the Minister of Labour a few weeks after the by-law had been passed in order to do something about the situation and to get the Labour Relations Board to alter its decision and the Minister called me and asked me what the position was and I said they could repeal the by-law at any time and a new application would be made and processed. If my memory serves me right, a new application was made and it was processed and certified.

MR. REAUME: I am happy to hear that.

MR. MacDONALD: Mr. Hearn, can you give us from your experience any other instances that arise from Section 78?

MR. HEARN: We have tried to nail down

specific instances so that we did not come before you with unsupported statements. We can substantiate today with some documents and other material only part of which have been collected. Our concern is so long as this section is in there that the hospitals we are dealing with, as Mr. Wren has pointed out, can at any time during the life of an agreement, if something they do not like occurs or something has gone to conciliation where an agreement was processed, winning the arbitration or something like that and they pass a by-law. Where do we fit? We are in the position where we have to walk the street or talk defeat.

MR. JACKSON: Can you give an example of the last one that happened?

MR. HEARN: The Welland Board of Education.

MR. JACKSON: Is that the last one?

MR. HEARN: April 8th, May 4th, May 17th, this year, May 23rd, this year, June 4th, this year. We had correspondence with those people asking to bring these people under the Act and they completely refused and said: No, they will not.

MR. JACKSON: More specifically, following along the example you raised where an arbitration went against them and then they passed the by-law --.

MR. HEARN: That is our concern.

MR. JACKSON: That it might happen?

THE CHAIRMAN: Has it happened in any instances you know of?

MR. HEARN: The only instance we have had of a very touchy situation was the Victoria Hospital, London. We did manage through the facilities of the office of the Minister of Labour to overcome it. They agreement is clear; the clause from the agreement quoted on page 16 is clear. If it is decided and they do not like the decision they can take it out of the agreement.

THE CHAIRMAN: The question I asked you, and I would thank you to answer it, has it ever happened, yes, or no?

MR. HEARN: Yes, it happened in the case of the Victoria Hospital, London.

THE CHAIRMAN: What was the result?

MR. HEARN: The result is as quoted on page 16. That is the only hospital we have had.

MR. WREN: In view of the fact that one of the cities mentioned was the City of Toronto where they have had experience of this kind and where there would be no difficulty of transportation, Mr. Chairman, I would like to ask your indulgence to call the Mayor of the City

of Toronto explain why they would first desire to be in the Act and then out of the Act. Why the City of Toronto would consider that a good procedure? It might help us in our deliverations.

MR. REAUME: I subscribe to that. He might be an expert, he has been in and out so many times.

THE CHAIRMAN: If it is the wish of the Committee.

MR. REAUME: I support it.

MR. WREN: I make the motion and it is seconded by Mr. Reaume that His Worship, the Mayor of Toronto, and his advisors be asked to appear before the Committee to explain their attitude toward Section 78 of the Labour Relations Act inasmuch as they have been in and out of it.

MR. JACKSON: How about the people in the City of Welland?

MR. WREN: There would be an expense there of transportation.

THE CHAIRMAN: It need not necessarily be the mayor, but someone who is familiar with the matter.

MR. YAREMKO: Does the brief not set out all the events that took place on page 17?

MR. FINKELMAN: I am certainly not entitled to speak on a motion but I would like

to bring to your attention one fact. In the main, the reasons for the situation in the City of Toronto are unique. I do not think they have any relation to any other instance where Section 78 was invoked.

MR. WREN: Toronto is a unique city.

MR. FINKELMAN: I am a Hamilton man myself. I hardly think you will get the information from the officials of the City of Toronto which will cast any light as to the general reason why other municipalities have invoked Section 78.

MR. REAUME: We would like to ask them why they were in and out.

MR. FINKELMAN: I can tell you, off the record.

THE CHAIRMAN: We will hear this off the record.

(Off record discussion).

THE CHAIRMAN: Gentlemen, it is now 4 o'clock. Tomorrow we will deal with the United Steelworkers of America, and the Canadian Independent Labour Association. On the agenda today was the International Union of Mine, Mill and Smelter Workers. I understand from the Secretary that it is their intention to return tomorrow morning at 11 o'clock. It is too bad to bring these people here, and have them

all sit around all day, and not be heard. I am trying to contrive some way so that this will not happen again. In future, Mr. Secretary, do not put more than two cases on the agenda for one day under any circumstances; no matter how short they appear to be. These people should not be inconvenienced.

MR. HEARN: With due respect, the next few pages are very important and we could come back another day. We could come back at the bottom of your schedule, if you so desire.

THE CHAIRMAN: Would that disturb you too much?

MR. HEARN: No. We are glad to co-operate with the Committee.

THE CHAIRMAN: Will you then get in touch with Mr. Perkins. We will keep in touch with Mr. Perkins and make ourselves available. Thank you very much, gentlemen.

--- The hearing adjourned at 4.00 p.m. to resume the following day, Thursday, October 4th, 1957 at 11.00 a.m.

(1075 follows)

LEGISLATIVE ASSEMBLY OF ONTARIO

SELECT COMMITTEE ON LABOUR RELATIONS

Committee Room No. 1, Parliament Buildings,
Queen's Park, Toronto, Ontario

Thursday,
October 3, 1957.

JAMES A. MALONEY	Chairman
HAROLD PERKINS	Secretary
GEORGE T. WALSH, Q.C.	Committee Counsel

MEMBERS:

G. E. Jackson
Donald C. MacDonald
Ellis P. Morningstar
Raymond M. Myers
Arthur J. Reaume
H. Leslie Rowntree
J. W. Spooner
Albert Wren
John Yaremko
Robert Macaulay

APPEARANCES:

Mr. J. B. Metzler	Deputy Minister of Labour
Prof. J. Finkelman	Chairman, Labour Relations Board

INTERNATIONAL UNION OF MINE, MILL AND SMELTER WORKERS

Mels Thibault	President
William Kennedy	Vice-president
Harvey Murphy	Vice-president
William Longridge	Secretary-Treasurer
Mike Solski	President Local 598
R. Methot	President Local 637
J. Yrcha	Executive Board Member
W. Kozar	Executive Board Member
Mrs. Pearl Chytyk	Ladies Auxiliary
R. L. Stevenson	Executive Board Member

THE CHAIRMAN: Gentlemen, it is now eleven o'clock and this morning we are to hear from the International Union of Mine, Mill and Smelter Workers. In the delegation we have Nels Thibault, president; William Kennedy, Vice-president; Harvey Murphy, vice-president; William Longridge, secretary-treasurer; Mike Solski, president Local 598, Sudbury; R.Methot, president, Local 637, Port Colborne; J. Yrcha, Executive Board member, Local 902, Sudbury; W. Kozar, Executive Board member, Local 637, Port Colborne; Mrs. Pearl Chytyk, Ladies Auxiliary member, Local 117, Sudbury, and R. L. Stevenson, Executive Board member, District 2.

MR. STEVENSON: Mr. Chairman, inadvertently in making out the list I left my name off, but my name is R. L. Stevenson.

THE CHAIRMAN: Who is going to present the brief?

MR. STEVENSON: I will be presenting the brief, Mr. Chairman.

THE CHAIRMAN: We will hear from you now, Mr. Stevenson.

MR. STEVENSON: Thank you, Mr. Chairman.

---Mr. Stevenson reads first two paragraphs on page 1 of the brief.

MR. STEVENSON: Mr. Chairman, at this

point we have a small supplementary statement on the question which is raised in the brief, which I am going to ask Mr. Thibault to present. I have copies of this for the Committee and I would ask Mr. Thibault to make this presentation. In addition, if any members of the Committee so desire we have copies of our Constitution and they will be available to you here. We are in short supply of the International Constitution that applies in the United States, but we have a couple of copies of them if you wish them.

I would ask Mr. Thibault to present this supplementary statement.

THE CHAIRMAN: Would you continue with this brief and then come back to that later?

MR. STEVENSON: I think it would better present the brief before the Committee if we presented it now.

THE CHAIRMAN: Very well.

---Mr. Thibault reads supplementary brief dated October 2, 1957.

THE CHAIRMAN: Thank you, Mr. Thibault.

---Mr. Stevenson continues reading main brief through to the end.

THE CHAIRMAN: Thank you, Mr.Stevenson.

Now, gentlemen, we will proceed in the usual manner with this brief, and I would ask if there are any questions arising out of page 1, if any member of the Committee would like to ask some questions.

MR. YAREMKO: When was this resolution passed, what year was that?

MR. STEVENSON: That would be in March of 1955, and the referendum vote following that would be in May of the same year. The information is contained at the bottom of the cover page of the Canadian Constitution.

MR. ROWNTREE: Mr. Stevenson, you say on page 1: "We have complete autonomy in Canada." What is the connection -- do you have any connection with any union outside of this country?

MR. STEVENSON: Yes, we do, and I think I would refer the question to Mr. Thibault.

MR. THIBAULT: I did not get the last part of the question.

MR. ROWNTREE: Do you have any affiliation or connection with any other union outside of this country?

MR. THIBAULT: You mean any other unions besides the International Union of Mine, Mill and Smelter Workers?

MR. ROWNTREE: Any kind of union?

MR. THIBAULT: I am still not clear on

your question. Would you elaborate?

MR. ROWNTREE: I am talking about page 1 of your brief where you say:

> "Further, our union enjoys
> " a unique position in the
> "international trade union
> "movement in Canada, in that
> "while we remain part of an
> "international union, we have
> "complete autonomy in Canada
> "under a Canadian constitution --"

Now, what is the international union you belong to?

MR. THIBAULT: That is the International Union of Mine, Mill and Smelter Workers.

MR. ROWNTREE: And where are their headquarters?

MR. THIBAULT: In Denver, Colorado, the United States.

MR. ROWNTREE: Do you pay any dues to them?

MR. THIBAULT: We still have the continuous practice of ---

MR. REAUME: The capital tax?

MR. THIBAULT: A part of the capital tax we once fully paid. That still exists.

MR. ROWNTREE: I do not think we have any evidence before us as to what this particular

relationship is. Would you tell us the story of the union itself -- your union -- what the normal monthly tax is and what the entrance fee is and what is remitted to Denver, Colorado?

MR. THIBAULT: The constitutional provisions provide an initiation fee of two dollars. It provides a monthly membership dues of $2.50. Of that $2.50, $1.25 is remitted by the local union to the national union treasurer in Canada. Under the relationship terms between the Canadian and United States section we still, up to this time at least, remit part of our relationship terms with the International Mine, Mill and Smelter Workers Union a portion of that $1.25.

MR. ROWNTREE: How much is that?

MR. THIBAULT: The amount remitted at this time is 55 cents of which 5 cents is immediately returnable to the Canadian strike fund; an additional five cents immediately returnable for the publication of our national organ here in Canada. The balance is not necessarily recognized as a precise amount out of which there could be further accruements to the Canadian section of the union, but that part then becomes part of the international treasury which is regarded as a common fund usable in Canada equally as in the United States.

MR. ROWNTREE: Who owns that common

fund?

MR. THIBAULT: It is owned by both the United States and Canadian sections by virtue of the international constitution.

MR. ROWNTREE: Is there any vested ownership in the hands of a member of your union in the common fund?

MR. THIBAULT: I do not think I am clear on the question -- if you would repeat it,please.

MR. ROWNTREE: I would like to relate the position of a member of your union, say in Sudbury, to the common fund in Denver, Colorado.

MR. THIBAULT: Well, it is similar to any member individually speaking within the entire international union. Both Canada and the United States has an equal charge upon that fund within the terms of the constitutional use of that fund.

MR. ROWNTREE: How does he enforce his charge, as you say, against the fund?

MR. THIBAULT: Through the constitution.

MR. ROWNTREE: What rights does he have now?

MR. THIBAULT: We have submitted you copies of our Constitution, both the Canadian Section and the United States Section, wherein the inherent right of charge of that fund ---

THE CHAIRMAN: We only got this this morning. You are familiar with it. Could you tell us without us having to look it up?

MR. THIBAULT: If you might raise your question in example form. You are dealing with the individual union member; you would have to relate some example in your question of an individual charge on that fund by reason of what?

MR. ROWNTREE: I did not use the word "charge" -- I believe you did.

MR. THIBAULT: Well, I interpreted the word "charge" to your question -- claim, I suppose, is what you mean?

MR. ROWNTREE: What I am getting at is, who owns that money? Supposing a member of the union in Sudbury decides to retire or become a gardener or something like that, or become an explorer and leaves the location, what happens to his rights to the money in the fund?

MR. THIBAULT: Well, again, the Constitution of this and, I presume, any union ---

MR. ROWNTREE: We are talking about yours.

MR. THIBAULT: All right, we will talk about ours. The claim of the members collectible against any of the finance or funds within that organization, if the member in some form or another severs his connection or

association with the organization, unless it is through a pension retirement wherein he retains a degree of membership, honorary or otherwise, he then of course severs his connection with the organization and the rights provided in the constitution. In other words, those members are affected by the provision of the constitution in relation to the fund, which I think is common practice throughout.

MR. ROWNTREE: Well, in effect, if he left the business of working at his trade he would abandon his interest in the fund?

MR. THIBAULT: If he left membership in the union by means of abandoning his employment and became disconnected with the jurisdiction covered by our union, naturally he severs it.

MR. ROWNTREE: And if he elected to join another union would he lose his interest in your fund?

MR. THIBAULT: Well, it would depend upon any social benefit, perhaps, whereby in our constitution he could retain a form of membership for the purposes of those benefits.

MR. ROWNTREE: Subject to that he would lose any part of the fund that was allocated to him.

MR. THIBAULT: True.

MR. ROWNTREE: The reason I am asking

this is, there was a suggestion made the other day that in jurisdictional strikes between unions that if one group did not like one union they should resign and join another. It seemed to me that the logic did not seem to be quite right. Here appears to be a case that if a group did leave your union to exercise their freedom of choice -- I understand that the Ontario Federation of Labour says freedom of choice is the individual's right -- but if they exercised their freedom of choice they only do it at the cost of abandoning an interest in a fund that they have built up over a period of years. What do you say to that?

MR. THIBAULT: Of course, I am certainly not going to attempt in any manner or form to discuss any phase of the presentation before your Committee by the Ontario Federation of Labour.

MR. ROWNTREE: Well, just a minute. Do you not endorse the Ontario Federation of Labour brief?

MR. THIBAULT: That is the position on our part, without indulging in any discussion of their presentation, which I think is proper. On the other hand, I think you are dealing with a question that actually invites discussion as to whether or not an individual

employee may not be abandoning the principles of trade unionism. If you were to suggest that merely by leaving the jurisdiction of one union and being able to carry over full and complete benefit, to me it seems that you are talking about a case of union principles which are established and inherent in the country.

MR. ROWNTREE: We are interested in the answer to the question. I take it you do not care to answer the question?

MR. THIBAULT: I think I have answered

2 the question actually.

MR. REAUME: I wonder if we might just go along with that for a moment. Do I understand that you feel by reason of the fact that the union member having paid dues into a certain union over a period of years, if he decides he wants to transfer from that union into another union is he entitled to any of the benefits or any moneys back at all that he has paid into the fund?

MR. ROWNTREE: Yes, and so you will know what I am speaking of, in operation our labour union negotiations involve the question of pension funds and probably the suggested clause in the pension fund is a question of whether an employee leaves the employ of the company, regardless of who pays him the money, he wants the employee to get back everything he has put in

and take it with him. That is the thought I am thinking of, combined with this freedom of choice in the suggestion from the Ontario Federation of Labour that it is labour's right, if they are not satisfied with one union, to move from there to another.

MR. REAUME: As I understand it, the business of pension fund is not controllable by the union.

MR. ROWNTREE: Through the bargaining.

MR. REAUME: But the actual money itself is not controllable by the union?

MR. ROWNSTREE: No, but it remains vested -- there are some vested rights which accrue to the employee who pays the money in.

MR. REAUME: I do not suppose that would ever happen, but as an example I wonder if this would bring out anything? Assuming that a man was a member of an Order, the Knights of Columbus, over a period of years and he decided he wanted to leave that Order and join the Orange Lodge. I do not think that would ever happen, but assuming he did, would that man be entitled to get back what he paid in in dues to the Knights of Columbis?

MR. ROWNTREE: I do not know.

MR. MacDONALD: I think it is a very important point. There are teachers paying, for

instance, into the superannuation fund and under certain conditions if they leave the profession they forfeit what they contributed. For instance, if a lawyer who has been admitted to the Bar in another province wants to join the Ontario Bar he pays $1500. I do not know what is done with that money but if subsequently he wants to leave the profession he forfeits any right he may have in it. I think that is a general problem or a general situation.

MR. ROWNTREE: No, it is not at all.

MR. MacDONALD: It is in the teaching profession. I do not know about the legal profession.

MR. ROWNTREE: Well, this is the time to debate this point. There is a transition, a growth of all kinds of agreements and the present trend in all of these pension funds is for the right to be vested in the employee and give him the right to withdraw these moneys he has put in. What they did twenty years ago, what the ramifications of the old plans could be, they are still hanging on, but today's version of an American pension plan involves the right of an employee to take his money out and it gives him the right if he goes from one employer to another to take certain rights with him.

MR. REAUME: Generally speaking, from

the information I have here, no union at all is at all hesitant about making public or disclosing what happens to financial matters within the uhion. They are quite prepared to open the books, as I understand it, for anybody in the world to see what happens to every dollar that is paid in. I have correspondence here with many unions and there does not appear to be any union which will hesitate at any time to open up the books for anybody. Is that not so? You are prepared to make a financial statement of what happens to your dues?

MR. THIBAULT: Under our constitution we do that.

MR. ROWNTREE: Do you publish a financial statement?

MR. THIBAULT: In all our papers.

MR. ROWNTREE: In what?

MR. THIBAULT: In the union's national publications audits are published.

MR. ROWNTREE: Does each local report to its members?

MR. THIBAULT: Their locals have their local audits as well as the national bodies, by chartered accountants. I might suggest that the matter you are raising here is one, in any event, that is determinable by the constitutions of the respective trade union bodies or the congress they may form part of. I might suggest

that in collective bargaining relations with employers one of the first clauses an employer insists upon is the severance of that employee, of his employment, that he immediately becomes bereft of all benefits established up to that point or granted by the company. I would suggest that certainly a fine lead on this question might be given if employers would agree that there be an accrued vested right to an employee for each year of service and it be in a mobile form if he severed with that employer and went to another. I do not think there would be any trouble if that were worked out.

MR. MacDONALD: If the objective is to establish a support for job pensions I am in agreement, but I did not gather that.

MR. ROWNTREE: My last question is this: You do pay over to the international body 55 cents, or let us say 50 cents plus or minus, on a couple of 5-cent items that are available for subsequent support of Canadian activities; would that be correct?

MR. THIBAULT: You mean -- say that again.

MR. ROWNTREE: Basically you pay 50 cents over to the international union and there are certain 5-cent items, I think two of them, that are available to come back to Canada?

MR. THIBAULT: Not available, they do come back by virtue of the constitution.

MR. ROWNTREE: My point is this: if the Canadian local or any local fails to remit to the United States ---

MR. THIBAULT: If what?

MR. ROWNTREE: If any of your locals fail to remit that 50 cents or 55 cents to the United States then the Canadian local would be in default,probably, under your constitution?

MR. THIBAULT: No.

MR. ROWNTREE: Would your local be subject to suspension?

MR. THIBAULT: No.

MR. ROWNTREE: What would happen if it refused to remit to the United States?

MR. MacDONALD: Well, the local does not remit.

MR. THIBAULT: It is not a question of the local; the locals remit to the national treasury.

MR. ROWNTREE: Then it is remitted by the whole of Canada by your Canadian headquarters?

MR. THIBAULT: That is right.

MR. ROWNTREE: And if they refuse to remit to Denver?

MR. THIBAULT: Of course, you are posing a hypothetical question. We would have

to have a question where the question arose where we would not remit, and in that case the relationship that remains between the Canadian and United States sections are permissible to the extent of their reaching an understanding as to why.

MR. ROWNTREE: Right. Well, then, let me refer you to a recent newspaper report of the situation involving a local of the Teamsters' Union where for reasons that I do not know about, and they were never published in the paper, the Teamsters' local refuses to remit to the United States, or some portion of it ---

MR. REAUME: I do not think that is quite right. Just to keep things straight -- if I have read the reports correctly at all -- they did not refuse, they did not have the funds to remit. Is that not so?

MR. ROWNTREE: I do not know.

MR. REAUME: I think so.

MR. ROWNTREE: I am asking this gentleman, Mr. Reaume. In any event, the Canadian group of teamsters lost their privileges at the convention.

THE CHAIRMAN: Just a moment, please. This discussion is all very enlightening but has it anything to do with the Terms of our Reference? If it has and somebody can show me that it has, all right, but I do not see how we can go into the inner workings of the unions as to who gets dues

and that sort of thing. We have taken twenty-five minutes on that already.

MR. ROWNTREE: I have a statement from one union group that says they are unalterably opposed to any affiliation with any American union.

THE CHAIRMAN: That has nothing to do with the Labour Relations Act.

MR. THIBAULT: Did the last remark allude to the Mine, Mill and Smelter Workers union, because we have made no such statement. The relationship between the Canadian and United States sections of the Mine, Mill and Smelter Workers Union is basically a voluntary one. We have complete, independent, autonomous rights on our respective sides.

THE CHAIRMAN: Shall we continue to page 2?

MR. REAUME: On page 2, the second paragraph, do I understand that if you set out to organize a mining company and the mining company is the owner of a piece of property in which live the people who work in the mines, in a community known as bunkhouses, that the mining company, by reason of owning that mine, I suppose even the miners or the applicants to the union are tenants of the mining company, that you cannot go on this mining property for the purpose of organizaing your union; is that correct?

MR. STEVENSON: That has happened on a number of occasions.

MR. REAUME: May I follow this a little further: you can, of course, attempt to organize a man or men or people into the union if they were occupying, say, property of mine. If I were the owner of the property you could then enter the property on your own time and on the time of the people who wanted to join the union, for the purpose of organizing; is that not true? I mean, if I were the owner?

MR. STEVENSON: If you would permit such a thing.

MR. REAUME: I never heard of that before. I thought you were allowed.

MR. STEVENSON: Perhaps I can give you some instances that would help you. The fact is, an organizational campaign in Red Lake, one of the companies there went so far as to build, I think it was, three fences around their property in order to keep us out and locked the gates.

MR. REAUME: When you say "keep us out" that is an important point, but they keep a union organizer out?

MR. STEVENSON: Yes, absolutely.

3 MR. MacDONALD: Except you cite one instance where they let a favoured union in.

MR. STEVENSON: That might happen.

It still remains as a matter of discretion for the company.

MR. MacDONALD: Could we get clarification from our legal counsel what exactly is the legal status in that kind of situation?

MR. REAUME: Before that comes, I would like to pursue one step further: when you are organizing in certain mines that come under the control of the Federal Government do you encounter the very same trouble that you do here?

MR. THIBAULT: In the initial stages of organization for properties under Federal jurisdiction we had experience in individual employer cases, but at the moment that has been remedied.

MR. REAUME: Who remedied it?

MR. THIBAULT: I think it was a matter of suggested discretion on the part of the employer at our insistence. Provincially the matter is still an acute problem. You endeavour to enter the property enter the domicile of the man, the baunkhouse which the company has fenced in, and in many cases they call it private property, and as soon as you attempt to proceed into that area you are approached by company management who have in tow a company policeman and you are ordered off the property and subject to a trespass

charge. If you refuse to vacate the property the provincial police are brought in and in one form or another you are removed from the property and subject to a charge of trespassing.

MR. REAUME: I asked that question because when I was at Elliot Lake I saw union organizers of four or five different unions running in and out of the bunkhouses without what I thought, at least, was interference on the part of anybody. Of course, that area comes under the control of the Federal Government, and I thought probably the attitude of the Federal Government was somewhat different than the attitude of the Provincial Government in respect to that one thing.

MR. THIBAULT: Well, it would seem in practice there is a difference in the attitude.

MR. YAREMKO: It is not a question of the attitude of the government, it is a question of the attitude of the individual employers. Where does the government enter into the picture?

MR. MacDONALD: May I ask one question because I think this should clarify it.

MR. THIBAULT: The employer protection is under the Trespass Act and the laws come from the government.

MR. YAREMKO: Because the province is charged with the enforcement of legal rights regardless of whether the jurisdiction falls within a

provincial or federal field, because it is a mine it comes under the jurisdiction of the Federal field. It does not mean that the province has not got the responsibility for carrying out the enforcement of legal rights. The uranium mines are not policed by the RCMP for trespass cases.

MR. THIBAULT: I think Mr. MacDonald has suggested a very urgent need for some legal clarification on this question, just what is the purpose of the Act and what is the extent and purpose of the trespassing law as it refers to the restriction of the particular trade unions?

MR. MacDONALD: I am not certain my question comes directly within the purview of the Act, but to understand the Act I think we have to have it in the instance of a pulp and paper company or a mining company which is given a concession which is not, as I understand it, outright ownership, but rather a lease proposition, a licence to develop the resources. What is the legal status with regard to that company in barring other people coming onto it? For instance, the fulfilment of the regulations or the rights under the Labour Relations Act?

MR. WALSH: If the lease gave them sole possession of the property they would have the right to determine who would enter that property. The lessee would have the right to determine

it.

MR. YAREMKO: Just the same as if I lease you a residence for five years. For that five-year period I as an owner could not go on that property?

MR. MacDONALD: Here you have a real problem because that is something that should be resolved, because by giving him that right in the instance of trade unions they cannot go in and in effect realize the rights they have under the Labour Relations Act. You may in another instance -- to show you the generality of it -- you may get a licence to hunt or fish from the Department of Lands and Forests but you cannot exercise it in this area, and it may be the only area in which you can hunt or fish because it may be in a country of about four million acres.

MR. WALSH: I think that is a question for the Committee to determine because if they have the sole right under the licence to occupy the property they can determine who goes on it.

MR. MacDONALD: In other words, an amendment to the Act that says for organization purposes of a union that they do have the right notwithstanding what the lease may say?

MR. WALSH: It would be a matter for you gentlemen to determine.

MR. JACKSON: Is it necessary to go into

the property to organize these people; is that the only opportunity you have of seeing them?

MR. THIBAULT: Yes, because you take an isolated mine, take Pickle Crow in the Northwest, in the lakehead area, that is all there is -- just the mine and the bunkhouses domicile. They are hundreds of miles from anywhere and you have to go there because it is the only way you can talk to the employees.

MR. WREN: To clear this further, could I ask counsel one more question? Would a simple amendment to the Labour Relations Act giving a union organizer the right to enter upon properties for the purposes of visiting tenants who are residents there -- would that take precedence over any other Acts, for instance, the Trespass Act itself?

MR. WALSH: Certainly it would if you put it in the Act.

MR. MacDONALD: Would it be subject to a court decision which might say the Trespass Act has precedence?

MR. WALSH: No, I would say that if you put it in the Act it would have priority over any other.

MR. REAUME: We can take a real instance of this, I think, and try a comparison. Supposing I was to lease a property from you over a long period

of time and once having entered into a lease I decide I am going to rent that to Pete Smith and have Pete Smith as a tenant of that property. If he wants to invite a union organizer into the property for the purpose of talking over organization efforts of a union, then I, I do not think, as the lessee of the property, would have the right to say to my tenant: "You cannot invite this man into my property."

MR. WALSH: No, because it says further on in their brief that they had invited certain unions or certain individuals.

MR. REAUME: But they cannot go in.

MR. WALSH: They can if the lessee or the employer invites them. He is the one who has legal possession of the land.

MR. REAUME: These people in the bunkhouses are paying rent so they are in effect tenants of the property, right?

MR. WALSH: Oh, no, I would not think that.

MR. WREN: They are a tenant under the Assessment Act.

MR. MURPHY: Where a man lives in a bunkhouse and the company posts a notice saying he cannot drink liquor on the premises, he lives there, and the Liquor Act says he can drink in his own home, but that is done. Men have been fined for drinking liquor in their own rooms, which

is carrying out the Liquor Act. Companies have refused to allow a man's wife to visit him in his own room that they pay rent for. They have complete control. I am speaking of the bunkhouses. That is his responsibility and he has no freedom to do anything he wants, even to protect his clothes, to lock the door. Cases have been taken up and the companies say the door must be open, and the man's property is exposed to everyone. The companies can claim complete rights over them and they have enforced it.

MR. REAUME: I do not know what it says in the Act or the law, but if I rent a room at the Royal York Hotel that is my home.

THE CHAIRMAN: Providing you can comply with all conditions of the management.

MR. REAUME: You can rest assured I do.

MR. WREN: Mr. Chairman, this is a very important item from the point of view of the administration of the Labour Relations Act because here is one very clear point where management is deliberately defeating it, and we as members of the Legislature are supporting them in defeating the whole intent and purpose of the Labour Relations Act. I know mining companies -- I have some of them in my own riding -- that are very much opposed to trade unionism, and despite anything passed here they are

determined, as long as they can, to thwart any efforts to organize.

MR. MacDONALD: They kept them out of Red Lake for thirty years.

MR. WREN: To organize people, in fact, to ignore the whole intent and purpose of the Act.

MR. REAUME: And it goes a little further than that.

MR. WREN: It goes further on with some of these mining companies where they have extended or tried to extend the same prohibition to recognized political candidates. I still have in my possession a letter from one of the mines in Red Lake -- you think you people are discriminated against -- I have in my possession a letter from one of the mines in Red Lake area which said to the employees who lived in company houses: "If you vote for any other than a Progressive Conservative in this campaign, turn your keys into the office and vacate the premises."

MR. REAUME: That is going pretty far.

MR. WREN: I can see here where this union, and all trade unions, I am not favouring one union over another at this point, but I do say this, that this is one place where, if the Labour Relations Act has any intent or meaning at all, we have to put a stop to this practice of barring people from their rights, controlling

the men who are paying just as much as you pay in some of the better places to live and yet they are denied all the rights of being a common ordinary citizen.

THE CHAIRMAN: I think the gentlemen who are presenting the brief have made their point and the Committee understands it. No doubt it is a matter that will receive ~~/~~ the very serious consideration of this Committee when we are making up our report. 4

MR. THIBAULT: I think you should be aware of this last point. We have appealed to the Ontario Labour Relations Board on this precise question and they have pleaded non-jurisdiction on the question.

MR. REAUME: The Board?

MR. THIBAULT: The Ontario Labour Relations Board. They have referred us to the Attorney General who we appealed to, and he said all he could advise was to discuss it with our legal counsel and our legal counsel advised us and it was substantial counsel, advised us that it was private property and that the law of trespass prevails.

THE CHAIRMAN: We understand the problem.

MR. YAREMKO: Just a factual question: Do I understand that there are, for instance, mining properties where not only the property is fenced

off but where there is a fence around the bunkhouses as well?

MR. THIBAULT: That is true. You go into any mining property and the first thing you hit is the gate which encompasses everything, which includes the bunkhouses.

THE CHAIRMAN: Shall we proceed to page 3, Certification Procedures? Any questions arising out of certification procedures?

MR. WREN: On page 3 the statement is made in the second paragraph -- there is a quotation, "'You have the right to join a union -- but it must be the union of my choice.'"

What companies have ever actually made this assertion?

THE CHAIRMAN: He is saying that that is in effect what they are saying; that is their conclusion.

MR. WREN: I will put the question this way: What companies have engaged in this practice?

MR. STEVENSON: I am not quite certain of the question.

MR. WREN: All right, what companies -- mining companies, I presume you are referring to here -- what companies have engaged in the practice of saying to their employees, "You have a right to join a union but it must be a union of our choice"?

MR. KENNEDY: Yes, Mr. Chairman and

members of the Committee, we have had that at Coldstream Copper, which is also close to your riding, where some of our people went on the property and were told that they could not get on and were advised if they belonged to another union they could get on.

MR. WREN: That is controlled by the Noranda Corporation?

MR. KENNEDY: That is right.

THE CHAIRMAN: Certification procedures, pages 3, 4 and 5?

MR. MacDONALD: Mr. Chairman, may I ask the representatives of this union, have you been able to establish in any of your locals what you might describe as continuity of practice so that when they are signed -- it may be weeks or months following the signature -- or signing of the next contract, that it reverts, it becomes retroactive from the expiration date?

MR. THIBAULT: No, not automatically. It has always been a matter of bargaining at that point.

THE CHAIRMAN: Anything on page 4?

MR. MacDONALD: Mr. Chairman, again just to find out exactly what the views of this group happen to be: would you object to a petition being entertained in opposing certification if the same regulations obtained for the getting of names

on that application as obtained for getting certification of the union -- I mean by means of moneys and signing of receipts and countersigning, and all that sort of thing?

MR. STEVENSON: You mean in the case of a union signing up, if they sign a petition?

MR. MacDONALD: If in effect you say, "Throw the petition out all together"? The suggestion of your brief is they should not be entertained at all. My question is, would you object to that being entertained if they were subject to the same regulations under the Labour Relations Act as you have to face in organizing a union?

MR. THIBAULT: We are not proposing that, but I might say that it would certainly knock out a lot of petitions that have been coming in. I do not want to commit myself in actually proposing that procedure but certainly it would be different to what happens now.

MR. MacDONALD: You feel at least it would be fairer?

MR. THIBAULT: Well, that is true; I will accept that.

MR. YAREMKO: Would it indeed be fairer? It is a point that seems to be bothering me. There is no doubt about it that when a union, take your own union, the International Mine, Mill and Smelter Workers,proceeds to organize a union that you have

available highly skilled, talented, experienced organizers and you proceed on the basis of experience and the talents and skills to organize a group of men into a union. The other employees who may not be attracted to the union or to that particular union have not at their disposal highly trained, experienced men to organize them, to express their own point of view, so that I think on the face of it, and reading the Act and the procedures, there seems to be a disbalance there. Is that disbalance there in reality?

MR. THIBAULT: No, I would not agree to a suggestion of under-rating the abilities of any individual workman as against any union representative or anyone else. I think you would be taking away something from the individual workman by way of his own ability to think and decide and determine an issue for him.

MR. MURPHY: I might point out to you the situation in Ontario has been pretty well covered. There are highly skilled legal firms who specialize in drawing up petitions and helping anti-union people.

MR. MacDONALD: Who finances them?

MR. MURPHY: Employers.

MR. YAREMKO: Do you know of any employer who has financed an anti-union petition?

MR. MURPHY: The Labour Relations Board

has a record of them, they have thrown out lots of them when it was a little bit less skilfully done.

THE CHAIRMAN: You mean by that that instances have been cited to the Board where there has been employer assistance by providing this counsel and they have still considered the petition where it has been proved that there has been outside assistance given by the employer. Is that what you are suggesting?

MR. MURPHY: And when the Board got it, they had it.

THE CHAIRMAN: Is that what you are suggesting?

MR. MURPHY: Yes.

THE CHAIRMAN: And each time they were caught at it the Board refused it?

MR. MURPHY: When they did that it is illegal.

THE CHAIRMAN: You are referring to cases where you suspect they were assisted by the employer but it has not been established by evidence?

MR. MURPHY: Sometimes they are pretty skilful in hiding it.

MR. REAUME: It would be reasonable for one to assume that these highly skilled men, a lawyer, would not be up there on a charitable case; he would be paid by someone.

MR. MURPHY: Sometimes the employer even attempts it.

THE CHAIRMAN: Where it is attempted the Board pays no attention to the petition; is that it?

MR. MURPHY: Oh, no, not our Board.

MR. MacDONALD: Do you normally have difficulty in getting this kind of evidence?

MR. MURPHY: It is very difficult. You have to prove it with these workingmen that are involved, and they face the danger of losing their jobs if they say they were approached by the company.

MR. YAREMKO: But you do proceed on the basis that every such petition is a suspect one; is that right?

MR. MURPHY: Generally speaking they are.

MR. YAREMKO: Would you ever believe that there would be -- this is a matter of your opinion -- an honest legitimate instance of a group of employees,without any type of interference, drawing up a petition?

MR. MURPHY: It is within the realm of possibility.

MR. WREN: Did you ever see one?

MR. MURPHY: I have not.

THE CHAIRMAN: Anything else on page 4? Page 5? Page 6, Voting Constituency.

MR. MacDONALD: Just as a matter of factual interpretation -- paragraph 2, in this instance where the union has only 45 per cent of the employees he does not have to prove he has a majority twice?

MR. KENNEDY: The point is, between 45 per cent and 55 per cent. He may have from 51 per cent to 55 per cent and still have to prove it again.

MR. MacDONALD: My point is, it is as a factual point from 45 per cent to 50 per cent?

MR. KENNEDY: No, but from 50 per cent to 55 per cent he does.

THE CHAIRMAN: Your big complaint here is that an employee who does not vote, that vote is considered a vote against the union?

MR. STEVENSON: In effect that is what the situation is.

THE CHAIRMAN: That has been brought to our attention.

MR. KENNEDY: Of course, with that, too, Mr. Chairman, we certainly believe that the Act should be changed, that if the union shows a majority that certification should be automatic, you should not have to prove the second time, and if it does go to a vote certainly people who are disregarding their responsibility and duty to vote should not be

the determining factor on whether a certification should be granted or not.

THE CHAIRMAN: In effect,you say the result should be determined by themajority of those who vote?

MR. KENNEDY: Yes, those who vote.

THE CHAIRMAN: Anything else on page 6? Page 7, Change of Company Name or Transfer of Employees?

MR. WREN: Mr. Chairman, I would like to ask, in the last paragraph it says:

> "We have had the experience of
> "a company changing its name ---"

What company was that?

MR. KENNEDY:, Mr. Chairman, I have had some experience with that one. I can relate the Labird's Lumber Company in Sudbury. They changed their name and split into three different parts and we had to make application, three new applications, or two new applications, covering the two new sections. Within a couple of days they had advertisements in the paper notifying the general public that it was the same company, the same management, operating at the same old stand, and the Board could not accept these newspaper ads as evidence that it was the same company and we had to get these certifications.

MR. YAREMKO: Well, Professor Finkelman,

you might recall -- is that a case where there was a new limited company formed? What do you mean by change of name?

MR. KENNEDY: I could not say but I think it was changed from Labird's Lumber Company to Labird Lumber & Supply Company, but the change of name was very slight. It still has the same officers of the company, the same men, same supervision and same everything, but we required three certifications to cover a group of people that were covered by one previously.

MR. FINKELMAN: I cannot recall the name of the case. I can check the records and see what the situation was. Mr. Kennedy might know the names of the other companies so I can get the other files, but if there is a mere change of name that has no effect at all either on the certification or the bargaining rights, but where a new legal entity is created it is an entirely different situation; where a company becomes incorporated, or, putting it in Mr. Kennedy's own language, are integrated from a legal point of view where it split up into parts, if there are two new companies incorporated to take over the assets of the first company, there is a change of entity and loss of bargaining rights.

MR. KENNEDY: Mr. Chairman, I can understand that, but they did advertise in the newspapers. Naturally they did not want to lose business -- that

anyone might think their company was out of business, so they advertised the same management, same supervision, operating at the same old stand. Although it may be possible that there was a new entity, a new company incorporated, but in our humble opinion it was complete subterfuge, there was no new management, it was still the same but they got around this -- I don't accuse the Board of doing anything wrong, but certainly the Act does not provide that there is any difficulty if there is some slight change like that.

MR. WREN: Do you suggest the only reason for changing the name was to invalidate the union contracts or agreements?

MR. KENNEDY: Well, we could draw no other conclusion because the men in this case were all under check-off, we had a substantial majority in each particular group that came into being, but yet the company refused to recognize until we got another certification, so we could only draw the conclusion that it was to get rid of the union.

MR. YAREMKO: It certainly was effective, in any event.

MR. KENNEDY: Well, this is where it becomes quite serious. Those men that have been working for the company, some for twenty or twenty-five years -- they are hired the next day with a new company. Pension rights, vacation rights and

everything else have built up and are thrown out the window, and some of the older employees are not even hired by the new company, and there is nothing you can do about it because there is no agreement protecting them.

MR. MacDONALD: Is there not another interesting point here that I must confess I did not twig to until this was raised yesterday: if a collective bargaining agreement is arrived at between labour and management under the law it must run for at least twelve months -- at least for a fixed period anyway?

MR. KENNEDY: Of course, the Act still provides that an agreement does not stop the company from going out of existence.

MR. MacDONALD: In effect, the point I want to make is, is it not possible for management to violate the term that the contract must run by changing the name at the end of six months, for instance?

MR. YAREMKO: Not changing the name -- changing the legal entity.

MR. MacDONALD: I accept the legal correction.

THE CHAIRMAN: So that in effect what you say is, there should be successor rights even if there is a change of the legal entity?

MR. KENNEDY: That is right; I believe

it used to be we could make an application to the Board for the company then in existence or its successor, but such applications will not be entertained nowadays. I cannot recall if any certificates were granted in that form but at least we used to make an application in that form but it is not done now.

THE CHAIRMAN: What you in effect would like us to do is incorporate into the Act Section 28 of the Trade Union Act of Saskatchewan?

MR. YAREMKO: Professor Finkelman, could you make available to the members of the Committee the case referred to on the bottom of page 9, the last paragraph?

MR. MacDONALD: On the short-term employees.

MR. FINKELMAN: If Mr. Kennedy will give me the name of the case?

MR. KENNEDY: Coballoy, in the Cobalt district.

MR. WREN: That is a mine, is it?

MR. KENNEDY: Yes.

MR. STEVENSON: The date would be September or October, 1955.

MR. MacDONALD: What case did you have in mind in the instance at the top of pag 9, where employees are switched to another company?

MR. THIBAULT: One in particular a

few years ago made an application for the employees at the Faraday Mines, and we were before the Board with our application and at the time of the hearing the company merely said they did not have any employees. We applied for approximately, I think, 26 or 27 at the time, and when we came before the Board the next time, the next day, there were no employees for Faraday; even though they were working for Faraday, being paid by Faraday, they were very conveniently transferred over to a construction contractor, doing the exactly the same thing as they were doing through Faraday. The application was dismissed and we were completely out, and then the crew goes back on the Faraday payroll.

We have them today, but that is just one of the clear-cut instances in practice. It tied the hands of the Board, in respect of the Board it was a matter of subterfuge that is permissible under the laxity of the Act.

MR. STEVENSON: I think Mr. Solski has another case.

MR. SOLSKI: The case of the application for Arcadia Nickel. I understand there were several applications necessary. We applied for Arcadia and they changed their name, or at least brought in contractors -- one was Fry Construction, another was Aer Nickel, and the third was Hill, Clarke, Francis. We had to make additional

applications and we ended up by finally being certified for Aer Nickel and Fry Construction, the same bosses, and negotiated a contract for both Fry and Aer Nickel, went through conciliation and finally signed the Fry contract, and a week after signed the Aer contract. I signed the Aer contract and the manager then told me, "Well, we will now change over and it will all be under one contract, under Aer Nickel," so we have a Fry contract but there are no longer people under that name; everything has been switched over to A r Nickel.

THE CHAIRMAN: Are the rights under these other contracts switched too?

MR. SOLSKI: I negotiated two separate contracts, one for Aer Nickel and one for Fry Construction.

MR. MacDONALD: One in effect becomes defunct?

MR. SOLSKI: That is the size of it. It took practically a year to conclude it.

MR. WREN: Mr. Chairman, could the Board in these circumstances -- the Labour Relattions Board -- rule that in any way an unfair labour practice under the Act?

MR. FINKELMAN: No, Mr. Wren. There was no allegation that there was an unfair labour practice. If my memory serves me right, what happened in the series of cases that have been

referred to was this: an application was made with respect to a certain company. Usually the application is made at a time when clearing work is being done, development work is being done. The company which owns the mine property, and with respect to whom the application is made, has just commenced operations. By the time the application comes before the Board which is, as I have indicated, about two weeks' time, the company says it has let the construction work for certain things to the XY construction company: it contracts the sinking of the shaft to a development company. Now, it informs us that the mployees who were formerly putting up a few shacks have been transferred to the construction company, that the individuals who were engaged in survey work, assessment work and clearing are now transferred to the payroll of the shaft sinking company. We examine the payroll records of the company, and in all these cases we have been satisfied that that is the case.

Now, whether it is done for proper or improper purposes has never been established before us. All we can go by is the employment records and the employment records are workmen's compansation, unemployment insurance, tax deductions and so forth. If that is evidence indicating that the development company has these employees then the certification will go.

MR. WREN: To your recollection, were any union representatives or legal counsel challenging the employer's contention or challenging its records of the validity of them?

MR. FINKELMAN: They have made statements that they think there has been subterfuge in this, but no evidence has been presented to upon which we can reach that conclusion. There may be evidence; I do not know. I am not prepared to say whether there is or is not.

MR. WREN: What I am getting at, there was no formal presentation of evidence?

MR. FINKELMAN: No formal presentation would convince us that there was any impropriety, or, I should say, upon which we could find there was any impropriety.

MR. REAUME: Do you organize men in the bush, people who cut wood?

MR. STEVENSON: No.

MR. REAUME: You do not have anything to do with them at all?

MR. THIBAULT: No.

MR. REAUME: What is this business about mine, mill -- is that the mill having to do with mining?

MR. THIBAULT: Yes.

MR. REAUME: You do not have anything to do with people who do sawing at all?

MR. STEVENSON: No.

MR. REAUME: Do you have any instances of where one company owns a couple of mines, and would there ever be an instance where the workers of one mine would be transferred over to the other mine owned by the one company? The point I am trying to make is this, would the agreement as it covers those men in mine A follow those men in the event they moved over into mine B in a different area? Would the agreement follow the men?

MR. THIBAULT: Only if the certification established that part of the district as one, and, secondly, as a matter of collective agreement -- in those two ways. It does not occur automatically.

MR. WREN: You have quite a number?

MR. THIBAULT: I think Mr. Solski may elaborate on that.

MR. SOLSKI: It goes back to the Arcadia. There shafts are a couple of hundred feet away, and the actual certification only covers one shaft; the other shaft is supposed to be under Arcadia. I think there are about a thousand men still working there. It is a shaft-sinking operation and we cannot touch it.

MR. REAUME: And one companyowns both of those operations; is that right?

MR. FINKELMAN: I do not know the facts of the case, but if the one company owned the two

shafts and they were side by side it would be most unusual for the Board to issue separate certifications. I cannot understand the situation at all. There is likely two separate companies, a situation where you have two separate companies sinking shafts and the records, as far as we can ascertain, are separate and apart from one another. What the reality of the situation is I do not know. We have no evidence of it.

MR. REAUME: I was thinking of the Ford Company at Windsor and Oakville. Is there one agreement that covers both plants?

MR. FINKELMAN: I do not know what the situation is at the present time. I know in General Motors there is a national agreement covering all of the General Motors' plants and subsidiaries. In Ford's -- perhaps this will give you the information you desire, Mr. Reaume -- the agreement covering Windsor did not cover Oakville, and when the Oakville plant was established and went into operation there was a separate certification for the Oakville plant and a separate agreement negotiated.

MR. REAUME: I understand that, and the point I have been trying to make for a week is, is it possible to work out any kind of plan whereby an agreement may follow a company from place to place, still in the vary same operation?

MR. FINKELMAN: There is nothing to prevent

a union and management to enter into that agreement.

MR. REAUME: Is there anything to stop us from making a law to make it mandatory that an agreement will follow an industrial movement from Windsor to Oakville? It is all within the boundary lines of the province of Ontario.

THE CHAIRMAN: If we recommend it and the Legislature follows our recommendation there is nothing to prevent it.

MR. WREN: You have extensive agreements in the Sudbury area with International Nickel. How do you negotiate with International Nickel? Do you have a master agreement to cover the men who would normally be transferred from one district to another in the Sudbury area?

MR. THIBAULT: Initially the certification to International Nickel was for all those properties in that nickel district and subsequently there were collective agreements provided to inter-operations affecting the employees.

MR. WREN: So you have a master agreement?

MR. THIBAULT: In effect, yes.

MR. WREN: Let us assume that the lakehead area -- would your agreements with Sudbury cover you in operations in the lakehead?

MR. THIBAULT: No. I can give you a closer example -- the Port Colborne Nickel Refinery where some of these gentlemen are from.

That is International Nickel and there is a distinct and separate agreement in the name of Port Colborne Refinery as against the one in the name of International Nickel at Sudbury. It is a separate certification and separate agreement.

MR. WREN: What if the company transfers people from Sudbury to Port Colborne?

MR. THIBAULT: It just does not occur. He would have to quit at Sudbury and be subject to hire at Port Colborne. I am speaking of those within the bargaining units -- not that we have not attempted to established the one single certification.

MR. WREN: In negotiating, what I am getting at is, when negotiating with the larger companies -- companies of a large size -- do you find it any more difficult to deal with them than smaller companies?

MR. THIBAULT: Well, that depends on a number of variable factors. Primarily,the determination of the membership to get more in line with the company's financial position -- the principles are the same. You have to fight for anything, whether it is big or little.

MR. WREN: I can understand that, but what I am getting at is: is there any pronounced attitude -- I am not asking this about International Nickel -- are there any pronounced attitudes in the

mining industry where one section of the industry appears to be more antagonistic to the trade unions than others?

MR. THIBAULT: There are obvious differences in the methods of the companies dealing with labour relations, various phases of the methods in gold, copper, lead, zinc or whatever it may be.

MR. WREN: Do you think the gold mining people are more difficult to deal with than the base metal mining people, or is there any marked difference?

MR. THIBAULT: I would rather not say they are more difficult to deal with, but there are items that create greater difficulty in dealing with them. You know yourself the gold mine areas are bereft of check-off positions which is a profound thing in base metals. Now, I think you are aware of that.

MR. WREN: But you have the complete check-off, do you, with International Nickel?

MR. THIBAULT: Right.

MR. WREN: It is compulsory and all-embracing?

MR. THIBAULT: A condition of employment.

MR. WREN: How long has International Nickel accepted that?

MR. THIBAULT: Our first year of bargaining. That was 1944, March 10, 1944.

MR. WREN: Has the company ever given any indication they would like to withdraw?

MR. THIBAULT: Never at the bargaining level.

MR. WREN: They have never made any serious argument to stop you?

MR. THIBAULT: Not to any extent.

MR. JACKSON: Would you say your union had a large number of difficulties?

MR. THIBAULT: No, I would not say that for a moment. One union is no different to another when it comes to -- one union is faced with the same problems as another union in getting a little peace in industrial problems.

MR. WREN: Do you feel that at any time this suggestion that the Mine, Mill and Smelter Workers Union is communist dominated, that that creates any difficulties in approaching employers?

MR. THIBAULT: Is that a matter of reference before this Committee?

MR. WREN: Well, it has a great deal of interest right across the province, and I know it does to this Committee because the suggestion has been made. I am not suggesting whether it is right or wrong, but in my own area I have heard it said that the reason we do not want this union to negotiate in this area is because they are reported to be communist dominated. Do you find that is a

factor?

MR. THIBAULT: No, they do not tell us that to our face at the bargaining table. Our position is that a company hires men and we organize them. That is the extent of our position in the matter.

MR. WREN: And International Nickel has never said to you, "We do not like to deal with you because there is a suggestion that your union is communist dominated?"

MR. THIBAULT: I have been on every bargaining committee since 1944 and I have never heard it.

MR. WREN: It has not been brought up by them at all?

MR. THIBAULT: Not that I have heard.

THE CHAIRMAN: We will adjourn now until two o'clock.

---Whereupon the Committee adjourned at 1.00 p.m.

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The hearing resumed at 2 p.m.

THE CHAIRMAN: Gentlemen, it is now 2 o'clock. At adjournment time we were starting on page 10. We had just finished page 9, I believe, "Employees who may be excluded."

MR. FINKELMAN: Before the adjournment, Mr. Yaremko asked about a certain case, the Cobelay Case and I had it sent up during the lunch period. The facts as they are disclosed in notes I have here would appear to be as follows: The company filed a list showing the names of 42 persons. Of that number there were some people who were on this assessment work. All the employees were regarded by the company as being employed temporarily and the development crew were in the same position as the others and it was not clear at the time, when the application was heard by the Board, whether the people on the assessment work would be kept on or not. The probability was that they would be kept on for work after the assessment work was done in exactly the same way as the other employees employed at the time. In view of that the Board came to the conclusion all the employes were in the same category and should be treated as a bargaining unit. That made a bargaining unit of 42 persons, and the Mine, Mill and Smelter Workers did not have the necessary

percentage to entitle it to participate in a vote or anything else.

MR. KENNEDY: The facts, as stated, might be true although we took the position that these assessment people should not be included and the fact of the matter is these men were not kept on the payroll. One of the reasons for the decision of the Board was the result of the vote and we felt that a vote should not be held at that time but should wait until there was a more representative group of the employees in the employ of the company. At that time, I think, there were 27 employees at the back of the union when the vote was finally taken and I think our position was completely substantiated that these men should not have been included. In fact, when the vote was taken they were not there and yet we were denied a place on the ballot because of that.

THE CHAIRMAN: It was indicated to the Board the likelihood that they would be kept on.

MR. KENNEDY: A number of the employer group did not think that they should be the group of employees on whom it depended whether we had a majority or not.

MR. ROWNTREE: How many cases have you had for the Labour Relations Board?

MR. MURPHY: I would say we have been before the Board dozens of times.

MR. ROWNTREE: Have you been satisfied with the results? Have you any other complaint?

MR. KENNEDY: In the main the cases have been handled in routine fashion, but this is one particular instance where we thought a certain group should not have been allowed to influence the majority. In fact, they have been excluded in other cases as temporary employees.

MR. ROWNTREE: Were you satisfied with the rest of the decisions you got from the Board?

MR. KENNEDY: I do not say we would be satisfied with all the decisions. I do not think any union is satisfied with all the decisions.

MR. ROWNTREE: Within the limits of the Act and the Board is governed by the Act in your estimation has the Board been doing a good job or not?

MR. KENNEDY: I do not think that is something that I should deal with.

MR. ROWNTREE: Let us get this straight: I have asked you a question and I want you to answer it.

MR. THIBAULT: You do not have to.

THE CHAIRMAN: Mr. Thibault, it is I who shall say whether he is to answer or not and I say he should answer.

MR. KENNEDY: I say the Board does their best as they see it.

MR. THIBAULT: Do not forget we have to appear before this Board from this time on.

THE CHAIRMAN: Do you feel they would decide against you if you were to speak against them? Do you really feel that way?

MR. THIBAULT: I do not feel that we should pass judgment on them.

THE CHAIRMAN: That is your answer.

MR. THIBAULT: Mr. Chairman, on a point of privilege, if I may, before speaking on page 10. I understand in the appearance here of another organization that the name of the Mine, Mill and Smelter Workers was quite prominently mentioned when it came to a question from the Committee in relation to a political matter. It is not the desire of the Committee here representing the Mine, Mill and Smelter Union to leave that question in any sense that there may be any illusion or impression that it was a matter that we did not wish to deal with.

THE CHAIRMAN: What question are you referring to?

MR. THIBAULT: The question raised by, I believe, Mr. Wren as to the position of companies at the time of bargaining as to whether they would desire not to bargain with us because of the allegations that this union was a Communist dominated union. Now, that was not dealt with extensively and in reviewing it and having heard since the luncheon adjournment that the name of our company was used in the discussion along a similar subject matter a few days previous, I do not want to leave any illusion here that we are desirous in any way of eluding that question. We have a constitutional policy and the constitutional policy of our union is on the very matter of the rights of our membership in relation to their political beliefs and since it is a matter of record before the Board I want to file with the Board the constitutional position of this union. I think I have a right to do so.

THE CHAIRMAN: Yes, you have.

MR. THIBAULT: Have the Committee received a copy of our constitution?

THE CHAIRMAN: Yes.

MR. THIBAULT: The objects are stated on the back and also contained in Section 1 or Article 1, and Section 2 of the official document. I would refer you to the second

paragraph at the top of page 8. "We extend to all workers who rightfully come under the jurisdiction of 'the union' without regard to race, religion, or political belief, colour or nationality, an invitation to unite with us that these ends may be attained." Further, as a matter of record, I have here the officer's report of the Ninth Annual Convention of the Canadian organization, the Canadian section, held February 25, 1957, and it is page 22. I will file this as to the processed policy statement. Again, in relation to this matter: Number 1, we reject entirely as false any charge that our union is dominated by or in any way allied with any political party. We read from our 1956 convention policy:

> "We resolve to re-affirm our historic policy of independent political action and that we will not be tied to any political party and that we will resist any attempt at domination." A

Policy statement number 2:

> "We are opposed to dictatorship in any form and we uphold and strive to protect and defend our Canadian democracy. We are opposed to subversion and believe within the democratic framework of our

"country all solution of problems affecting our people can be consummated."

I simply want to conclude by saying, while it is true that many propoganda remarks are laid to this organization, I am not for one moment going to try to assume the responsibility of explaining for those people responsible for those remarks; their intention or their purpose. We have a constitutional position and the membership of this union established that position.

THE CHAIRMAN: Shall we go on with page 10, "Employees who may be excluded"?

MR. REAUME: On page 10, the second paragraph -- I want to say that one exception to that rule is the City of Windsor who entered into a voluntary agreement back in 1937.

MR. KENNEDY: We do not say it is not so; we say we were not aware of it.

MR. REAUME: I just wanted to put in a little plug for my home town.

MR. YAREMKO: We have submitted to the Committee a proposition that all bargaining agencies should be certified; all should go through the certification procedure regardless of whether there is the possibility of a voluntary agreement being entered into or not.

Have you any comment to make on that proposition?

MR. STEVENSON: We have submitted no position on that.

MR. YAREMKO: It appears to me there might be some slight protection of position in regard to the matter set up on page 10 and in regard to your position as stated on page 5. Reading page 5, the second paragraph, "In view of a number of these circumstances that we have just cited, it is the opinion of our union that certification procedures of the Act should be made as a voluntary matter on the part of the workers and that where workers desire to establish recognition of their union without recourse to the Act, they should be permitted to do so." And then, the following two parts would lead one to believe you were establishing a proposition that a group of employees should have the right to take themselves out from under the Act if they so wished to to. Do I interpret page 5 correctly?

MR. STEVENSON: Yes.

MR. YAREMKO: On page 10 you are suggesting that the municipality should not have the right of taking out their employees from under the Act but I do get the impression you are suggesting that the employees should have the right of taking themselves from under

the Act without giving the employer the right to take his employees out from under the Act.

MR. STEVENSON: I think it is a question of whether they voluntarily wish to use it. Section 78 provides specific rights at the present time allowing the municipalities to exclude their employees from bargaining and that is a course with which we do not agree. We feel they should be able to bargain and anticipate in any negotiations as any other union and on the same basis.

MR. YAREMKO: That they should be under the Act?

THE CHAIRMAN: They are under the Act unless they are taken out.

MR. YAREMKO: The point of this proposition which has been repeated several times is that Section 78 should be taken out of the Act which would prevent municipalities from taking their employees out from under the Act.

MR. STEVENSON: All we are pressing for is that the municipal employees should receive the same treatment under the Act as any other group.

MR. YAREMKO: Then on page 5 you go on with the suggestion that the Act should be amended so that the employees might take

themselves out from under the Act.

MR. STEVENSON: Yes, if they voluntarily wish to do so.

MR. MURPHY: After all, this is an Act for labour and union and if the employers knew that unions would not be bound to go through that stage of certification and all those delays they would have a greater respect for the Act instead of trying to get around it and trying to convince those workers they have no benefits under the Act. After all, this Act was not drawn up for employers; it was established by labour for the right to bargain collectively and to establish peaceful industrial relationship. If the Act is of such a character workers would not choose to be exempted from it, but that is not the case where it works directly against them and might be used against them. I think the mere fact that the employers knew that it is voluntary on the part of the union on that point they would have much greater respect for it. In some instances it does not work at all, and so the Act is a complete hindrance: An Act established for the purpose of protection and yet the Act does not allow them to get certified.

MR. YAREMKO: Are you suggesting the

thought of the Committee should be along the lines that this is an Act for labour?

MR. MURPHY: It is a Labour Relations Act. It seems to me there is a difference between an Act for Labour, as you imply, and an Act that has to do with labour relations, because when you use the word relations there must be a relationship between two parties.

MR. YAREMKO: Are you suggesting that this committee in its deliberations should forget the word relations and only think of the word labour?

MR. MURPHY: Labour has to have relations.

MR. YAREMKO: Would you not say that this is not an Act for labour, but labour relations?

MR. MURPHY: This is an Act to protect the rights of the workmen to organize and bargain collectively which was previously ignored by law and that Act was brought in on the insistence of labour because employers refused to recognize and deal with trade unions unless they were compelled to do so, so we had to have the Labour Relations Act. If that Act stands in the way, as it does in this instance cited, so that the employer knows he can hold you up to a cooling-off period and picks the most favourable time for him to act

against you then certainly the Act does not work in the way it was intended, as in the building trades and in the other instances we cited. I think we would get a faster labour management agreement and a better record. Some employers have utilized this provision of this cooling-off period to create a freeze out, and there is nothing you can do about it, and if they knew in advance that the Act is not compulsory they would act differently. We find it so. Unionstoday that are strong enough to fight that action get better agreements and get them faster, but where the employers are dealing with small, weak, little unions and where the job is a temporary one, they take full advantage. In such an instance these employers should know they have to bargain in good faith or else the worker will apply for exemption from the Act. Most workers are pretty sensible about their rights and should be entrusted to make a proper choice.

MR. MORNINGSTAR: On page 10, the second paragraph, you say: "We are not aware of any cases where a municipality has voluntarily recognized a bona fide trade union --." I believe the county I come from has organized their employees.

MR. JACKSON: Would this hold true of essential services as well in a municipality? You are embracing everything, are you, in this exemption?

MR. MURPHY: Yes, they should have the same right.

MR. JACKSON: You say the whole group -- police, firemen, constable employees, you want them all?

MR. MURPHY: I think all workmen should have the same right, civil servants and all. I do not see why the Government or any municipal authority who are in the category of employers should be on a different basis than in private industry in so far as dealing with employees. After all, you in the government pass laws for other people and you, too, should be governed by them yourself and should agree to accept them. If they are good for labour and management outside why are they not good for the Government and its employees? Civil Servants should not lose any of their rights by reason of the fact they accept Government employment.

MR. JACKSON: Yesterday we dealt with hospital employees and at that time they were mentioning about their right to strike and so on and so forth and I am just trying to

get you as a union group to express your thinking when it comes to a thing such as a hospital. If we have hospital employees on strike with sick people in the hospital, following your recommendation, I assume you would just allow them their right to strike, no matter what conditions prevail. Am I correct in assuming that?

MR. MURPHY: You are correct in assuming that. Nurses, as well as all other people who work for wages, should have the right.

MR. JACKSON: Hospital attendants?

MR. MURPHY: Absolutely. I married a nurse and I know what wages she was getting when I married her; she had no rights.

MR. MacDONALD: I think it is only fair to recall that when the submission was made yesterday and these responsible union officials were posed with the query of whether they would leave hospitals unattended. They said they would not exercise their right to strike without giving some alternative opportunity for settling unsolved issues and only after submissions have been submitted to arbitration in the essential services, specially hospitals.

MR. WREN: There is a strange anomaly in Section 78 in regard to hospitals and

essential services of hospitals. Section 78 permits you to take municipally-organized hospitals out of the scope of the Labour Relations Act but there are other hospitals in this province, to wit: Religious institutions, Roman Catholic institutions who are subject to the Labour Relations Act. Why would they differentiate between two different types of hospitals? On the one hand Section 78 applies and on the other hand it does not.

MR. MacDONALD: I think that just reveals the discrepancies of Section 78.

MR. ROWNTREE: I think the private hospitals should be included in Section 78.

MR. MacDONALD: Or the reverse.

MR. MURPHY: Just to illustrate the plight of the Civil Servants when a Chamber of Commerce has to pass a resolution that they get higher wages.

MR. REAUME: Where did that happen?

MR. MURPHY: Victoria. The Chamber of Commerce passed a resolution asking the Government to pay higher wages to the Civil Servants.

MR. REAUME: I would have to read that in black and white; I cannot believe it is true.

THE CHAIRMAN: Shall we go on to

page 11, "Contracting out work".

MR. ROWNTREE: Can you give us any indication of the frequency with which this situation occurs. Before you answer I would say this: There was an observation I was inclined to make this morning; I recognize that there are some irresponsible employers, there may be many of them, but in today's business field in the mining situation, you have a developing trend whereby a mining company, instead of building its own mill, contracts the whole subject matter out to another firm through an independent contract.

MR. STEVENSON: That is really not the substance of the problem we are getting at here. The substance and main thing we are trying to get at here is the developing practice among some of the mining companies of actually sub-contracting out the various portions of their already existing operation. We have that situation in the Sudbury area. For instance, with Falconbridge where there is quite an extensive development of that nature to the point where we have, I believe it is a small lumber company, that has moved in and are doing work in the yard. There are men working for $1.25 and $1.30 an hour and working side by side with men under our contracts

whose wage rates are very considerably higher, $1.90, $1.95.

MR. REAUME: On the very same job of work?

MR. STEVENSON: On the very same work, I believe, is it not, Mr. Solski.

MR. SOLSKI: Not exactly, the work at one time was done by the Falconbridge employees, Timbering, but having acquired the shares of this lumber company, it is now being done by an independent company. The same thing applies in another instance; at one time all the surface working and hauling of fill was done by Falconbridge trucks.

MR. ROWNTREE: Is it your view that all the functions a company might perform under its own direction at a given moment must be continued forever thereafter?

MR. STEVENSON: We feel at the present time there is confusion in the conditions laid down under contract negotiations.

MR. ROWNTREE: Did you not think to organize that lumber company?

MR. STEVENSON: As a matter of fact, they are under contract at the present time.

MR. ROWNTREE: Then you did succeed in signing them up?

MR. STEVENSON: Take the matter of the

shaft development: you could go out and organize one contractor and when they find out they are organized and subject to collective bargaining they are very likely to bring in another contractor and simply evade the question. That has happened in our experience.

MR. ROWNTREE: Now since there are some other aspects beyond the ones you raised. There is the problem of having to do with liabilities and warantees and the hiring of an expert to do the job and paying them to do it, because the company does not want to be involved with the engineering technicalities involved and so on. I think those are factors that go along with what you are saying.

MR. KENNEDY: You do not require an expert to shovel earth and make a ditch.

MR. ROWNTREE: But you might in engineering the project.

MR. MORNINGSTART: Could this not be looked after in your negotiations when you signed the contract and have those items put in there?

MR. STEVENSON: We had a particular instance in the Falconbridge Mine where they had a development just a couple of miles from their mine and a portion of that work was done by men who were employed by a

contractor. At the same time employees from the Falconbridge operation that was under contract moved in there and were not able to use their seniority rights under collective agreement to establish their bids and so on on the more desirable jobs in that operation. That is the situation that arose there.

MR. WREN: Is this not a more frequent occurrence in the North? It seems to me it is a common practice with mining properties when they get past the exploration stage and get to the shaft sinking, it is common practice for them to engage a shaft contractor to do the sinking and the drifting.

MR. STEVENSON: It is the developing trend.

MR. WREN: Is it not a common procedure?

MR. STEVENSON: It is widespread.

MR. WREN: What would you do about International Nickel if they were to sink another shaft and hire another company to sink the shaft? What would be your position?

MR. STEVENSON: We have no position; we are simply out. The terms of our agreement do not cover the Harrison Mine and it is a widespread situation.

MR. WREN: It is a position that has existed for many years and is not something

new.

MR. STEVENSON: The new development and the new trend that bothers us greatly is not the situation you are referring to when a new mine opens up and initial work may be done by contractors but where you have an existing operation with a collective agreement in force and the company, for one reason or another, perhaps involving engineering or other reasons, ignore the terms of that agreement in bringing in outside men to do that work rather than allowing the men who would ordinarily do that work.

MR. MacDONALD: What, specifically, is your amendment to the Act to cope with this?

MR. STEVENSON: I believe it is in the brief.

MR. MacDONALD: Is it on page 11?

MR. WREN: That is what concerns me; what are the mechanics by which you could bring it about?

MR. STEVENSON: We propose in the brief -- "The Act should provide that when a union is certified and holds an agreement all employees who do work normally included in the description of the bargaining unit and are working in and around the geographic jurisdiction covered by the certification

"and/or -- the collective agreement, such agreement shall be deemed to cover the employees of the contractor and the contractors shall be subject to all its provisions as if he were a party and signatory to such agreement."

MR. MacDONALD: Let me cite an instance which is out of your field. Suppose, for example, in the case of a big building which at one time had its janitor services done by its own employees and now it resorts to what is a growing technique of hiring an outside company to do the cleaning of the building so that within their building or company are the men of this outside company. Do you think the men in the outside company should be brought within the contract of the particular bargaining unit of that building?

MR. STEVENSON: Yes, and the same conditions should prevail.

MR. MacDONALD: It would create a bit of a problem in dealing with these men outside of your own bailiwick as they might be in 50 different contracts because they worked in 50 different buildings.

MR. SOLSKI: We have run into different situations where companies have laid off some of their own tradesmen, painters and such, and at the same time brought in

contractors to do painting.

MR. MacDONALD: I recognize the problem in your instance and in other instances but I am trying to sort it out; it might be a case of trying to evade the bargaining unit or on the other hand a legitimate case and it would be obstructing the natural growth of new business procedures and all the rest of it.

MR. ROWNTREE: I must comment at this point: If you were to organize a professional janitor service the needs of trade unionism would be met in a practical way. From what I have heard in the last few days the union themselves have not solved their jurisdictional problems to the point where they could work this out. I think it is their own problem.

MR. SOLSKI: It is not a question of jurisdiction. They could plan a company type of organization where they take everybody within the group as detailed and outlined in the certification. You sign an agreement and half way through the agreement you find yourself with some of surface section of your certification being let out to somebody else and in another instance you find the development is contracted out and then your shaft sinking and they have even gone as far as contracting out the actual production work. We have an example

at Falconbridge, again. The usual practice of that company is that the development work is done by contractors; then when they get into production it would automatically become a department under the present certification. In one instance they continued beyond that stage and contracted out the actual production. It is easy to find yourself in a situation where you obtain certification for the whole unit and then the company cut up your whole operation into sections and contract that out and you would be dealing with five different certifications.

MR. WREN: I think everybody realizes your problem but the committee is interested in what you suggest. The amendment to the Act, as I see it, would involve labour relations across the entire province. You suggest here a geographic area. That might not be possible. For instance, in the case that Mr. MacDonald cited.

MR. THIBAULT: Mr. MacDonald fanned out into fields in this way: For example, janitor service where sections of the employee group of janitors might find themselves working in different buildings and have, presumably, different employers. We refer here to a

precise instance taking the Patrick Harrison Mine who might have a group of shaftmen or development crews, level advance miners in the Falcanbridge Mine or the Inco Mine. What we suggest here for those working groups, regardless of the fact they are working for the same employer, with different companies must comply with the collective bargaining conditions established in those respective places. I think that starts to deal with the answer to your question.

MR. WREN: You do not think that if a certain fixed area were set aside that it would solve the problem?

MR. THIBAULT: This overcomes the obstacle of a fixed area by referring to the certain agreement that is applicable in the area.

THE CHAIRMAN: Page 12, "A check-off of union dues."

MR. WREN: You have already told us that International Nickel has a complete check-off in all their agreements with you. May I ask what portion of the other companies you deal with have the check-off?

MR. THIBAULT: Have the check-off?

MR. WREN: Yes, have negotiated the check-off with you.

MR. THIBAULT: I might say a strict minority of mining companies with whom we deal and have collective agreements contain union security provisions of any nature. A very, very strict minority. I might say, two in fact.

MR. WREN: So outside of Inco you have only two others in the scope of operations?

MR. THIBAULT: I am sorry, we have four. Two in Red Lake and two in Kirkland Lake which have any union security provisions.

MR. MacDONALD: Still in gold?

MR. JACKSON: You do not think, then, this is a thing that is better left to the bargaining table -- the check-off.

MR. THIBAULT: No, we think it should be a matter of legislation.

MR. WREN: I am asking this for information: How would your union react to a proposal along that line if management were to say to you, "Well, we might be agreeable to give you the security provisions you ask and might agree to that going into legislation providing the union would alternatively agree that they would be willing to become a legal entity, as industry has so often asked, so that your union may be sued and so on. How would you react to that proposal?

MR. THIBAULT: Apart from the fact that I do not think the point you make in relation to the principle interest of check-offs, nevertheless we would oppose that.

MR. WREN: I have had some mining people tell me that they have no objection to the check-off if the union themselves with whom they contracted were legally responsible. What do you think of that?

MR. THIBAULT: Do you mean that unions should be sued for damages?

MR. WREN: Yes.

MR. THIBAULT: I have already answered that: We would oppose it. Apart from the fact that I do not think it has any relationship to the check-off.

THE CHAIRMAN: You are opposed to unions being made legal entities?

MR. JACKSON: May I ask the question, why?

MR. MURPHY: They are voluntary associations and as voluntary associations we have to organize the people that the employer hires and they come into our organization. As a voluntary organization how can the union be responsible for those individuals. They are not a corporation. Our members come and

join and leave and we have to get our membership from whomever the employer hires.

MR. WREN: Construction employers appeared before this committee last week, and they suggested in their submission to the committee that what you say is not entirely so because they suggested in many cases they had to go to the union to hire their employees. They needed men and had to go to the union to hire them.

MR. MURPHY: They have a closed shop in the hiring of them. In so far as the union itself, as an organization, it has to be wide open. It has to be open to all of the employees and all have the right to join, the law prescribes that, the right to join any union. And then to say that we have to be responsible for any individual action. The individual himself is responsible to the law. No officer of a union or a member of a union can do anything unlawful any more than any other citizen. Then to prescribe that the association, because we voluntarily associate, that we are responsible for the next man --.

MR. JACKSON: Do you believe that unions should be held responsible for the actions of their members while engaged in union duties?

MR. MURPHY: Unions are responsible

to the same extent as any other organization.

MR. JACKSON: In what way are they responsible?

MR. MURPHY: In the same that an Anglican church is responsible for what the congregation does.

MR. JACKSON: I am relating it between management and labour. I am not trying to put you on the spot or anything of that kind, but I would like to relate it between management and labour. On the one side I see management as a corporation being held responsible for their employees while engaged in company business. On the other side I see a union, which you say is a voluntary organization and I will accept that, but I want to find out why would it not be fair to make them legally responsible. You are responsible for their working conditions -- at least, you try and make yourself responsible for that -- or their wages so why shouldn't you also take with that the responsibility of this common law that you would be responsible for their actions while on union business. Why would you not do that?

MR. MURPHY: In so far as the whole membership of a union is concerned, we are not allowed to select people who can be members

of our union. They are employees, first of all, of the company. And now, if you are referring to employees of the union, business agents and so on, we are responsible for them in so far as committing any unlawful offence, I suppose, if they are employees. But members, that is something else again. For instance, take a company, it is a corporation. People invest in it and they own it; they own the company and they are in control and whatever actions they take are as a result of their own control. We have no control.

MR. JACKSON: Have you any disciplinary control over the members of your union?

MR. MURPHY: So far as the local members, whether they commit any breach of the constitution, and there are ways of dealing with them.

MR. JACKSON: You have certain disciplinary action?

MR. MURPHY: It is provided for in the constitution.

MR. JACKSON: Do you exercise those on occasions?

MR. MURPHY: On occasions. There is a procedure method of laying charges; a completely democratic provision in regard to the whole of the membership.

MR. YAREMKO: Is not a corporation, really, also a voluntary association? A group of people get together and pool their capital and set up an entity which is going to carry on business and the actions of every employee of that group or one who is participating in the management of that group might have a very direct effect on a shareholder who would not agree with the decision of the management. It could be something like whether management takes a step, say, in having a union which an individual shareholder might not agree with and which might bring about loss to the company as the result of the industrial dispute and the shareholder, in the final analysis, may be out of pocket, suffers loss, or it may be that if an employee of that company, through negligence of some kind where the corporate entity is held responsible, the corporate entity itself, the shareholder suffers his proportion of that loss.

MR. MURPHY: But the relationship here is different. I want to say in support of labour, and our union has had lots of experience in that regard, that there have been governmental committees investigating the planting of men inside of our organization. Men who would, without taking it up in the

organization or anywhere else, commit an offence and call the boss something he could be sued for and then they sue the organization. We have had provocateurs, stoolpigeons, we have had everything planted in labour organizations and it would be a set-up where we would be in the courts all our life. I do not think that the association that presents that does so with any other idea. Originally, in 1901, when that was enforced, there was a strike in a mine and the employers claimed damages. It was Center Star Mine at Rosland. And then the union sued, again through the courts, and the assessment was upheld and those men had their homes seized and whatever little property they had. As a result the legislature, the legislature in that province, Center Star Mine at Rosland is in British Columbia, had to pass a special legislation in order to protect men in joining a trade union. In the first place, the employees of a company are engaged by that company. In the second place, there is not a trade union that would be able to exist if that condition was ever brought in. It would mean they would be liable to court action for damages and all that.

MR. JACKSON: And should they not be?

MR. MURPHY: Should they be?

MR. JACKSON: I am asking you should they not be responsiible for damages?

MR. MURPHY: What voluntary association do you know that could possibly exist if it were made a legal entity and subject to whatever its members did? After all, a corporation is a different thing. They themselves have disciplinary control over whom they hire for their officers and here there is nothing like that.

MR. REAUME: I suppose there would be a rare instance of where, let us say, an organizer of a union, in the union, in his attempt to organize a small business -- I do not mean a big affair but a small business -- and set up a picket line wrongfully, illegally, or let us say, even legally and the result of the establishment of that picket line on a small business it is not hard to conceive would be bankruptcy for that business. And yet, there have been some instances where organizers will hide behind these things and it is just as hard for a small business man to prove although he may feel certain that Mr. A. or Mr. B. were the people responsible for the establishment of the illegal picket line which put him out on the street and out of business and he finds himself up against a stone wall as so often the

union does in their hard work of trying to organize where we cannot lay the blame or put your finger on the people although he may feel certain as to who the people were. In the interim, there have been occasions of this kind where people have gone bankrupt.

MR. MURPHY: It is true that small companies may go bankrupt. But I can tell you this: thousands of the working men have lost their jobs in a mining town, they have to leave and leave their home and everything else. It is an economic fight and in that case there is risk on both sides. Lots of our men have been black listed and cannot get employment and have lost their homes and everything else and that is their suffering. Say there is a picket line and anything illegal is committed on that picket line, then that individual is subject to arrest and trial. He has committed an offence and there are plenty of laws that govern the individual. What these associations want to do is to say that the whole union should bear the responsibility of what any individual does and how can we guarantee that? If we were to make it a corporate entity we would really have to establish a hide-bound trade union because we would have to insist upon restraining the rights of the members and I

would certainly oppose it from that point of view.

MR. REAUME: I understand the problem.

MR. YAREMKO: Would they not be responsible in restraining individual members of the union from committing unlawful acts?

MR. MURPHY: Churches have had that trouble too and they cannot do anything about it.

MR. JACKSON: That is hardly similar.

MR. MURPHY: It is very similar. These are voluntary organizations and have to remain so. To make me responsible for what an individual that is hired by some employer does on that picket line when I am thousands of miles away and havenothing to do with it is an impossible situation. It is different than a corporation.

MR. ROWNTREE: Why?

MR. YAREMKO: If a union has entered into an agreement which is a contractual obligation between two parties surely both parties should have that responsibility as well as the results which flow from the responsibility in making sure that the contractual obligation is carried out.

MR. MURPHY: We are aware of that. We reach an agreement with the company; and no

strikes, no shut-downs or anything like that. There is where two parties voluntarily sit down. And then there is an instance where they leave it to arbitration and suffer the penalties of arbitration and afterwards, if they are unsatisfied, to goes to a board and then we have the Labour Relations Act which certainly allows the people that breach the agreement, a collective agreement with regard to strike, or refusal to take the matter to arbitration to have penalties imposed upon them. Now, with regard to that, unions are pretty well responsible; they have to establish their position. They are elected The matter is submitted to a vote. Then we are elected to represent the members just as the member for any constituency in Toronto is elected by those people. Would you say that having been elected on that basis and you are established in the house as representing those constituents and if a Member of Parliament should do anything such as abscond with funds then do you say his constituents should be sued for that money?

MR. YAREMKO: Surely that is not a comparable situation; are you not getting cabbages and peas in the same basket?

MR. MURPHY: It could be rather far-fetched but we are elected by these people to

represent them in bargaining. It is the only relationship we have in a good many of these cases. In so far as who is a member of a union, it makes no difference, we still have to represent them.

MR. JACKSON: Perhaps you might answer this question for me: I am seeking information from the Mine, Mill and Smelter's Union to get your views as to certain things that have come in front of the committee and will continue to come in front of the committee.

MR. MURPHY: I appreciate that and I hope I am giving you some information.

MR. JACKSON: Here is another question I would like to ask you: I think the public, by and large, are becoming quite upset about unlawful practices during picketing. Have you, in your business, in your every day working with union and management, any recommendation or any suggestion how unlawful practices in picketing can be curbed?

MR. MURPHY: Unlawful picketing?

MR. JACKSON: No, I am thinking of destruction of property; vandalism carried on during picketing. All right, I will go along with you and say members of your union have never done it and are never likely to do it.

MR. MURPHY: Our union will not destroy property. I will tell you how much further we have gone; during any strike with a company and certainly there is a case where you can commit damage to the company, that is what a strike is about, and you do try to inflict some economic penalty and cause them loss and they try to cause you loss; that is the type of warfare it is. This union will go to this extent in the protection of property and during strikes we have had in our agreement and, in fact, in our constitution -- the agreements of our local unions would provide the maintenance, will provide enough men, and we have, during the strike to keep the property in shape. We have never yet withdrawn maintenance. I believe that is going a good distance and I doubt whether you will find the employer who will do the same thing. We have had cases where men have been evicted from their houses and have had their credit in a company store cut off, have had their lights shut off.

MR. JACKSON: Could you answer my question.

MR. MURPHY: I do not agree with that belief.

MR. JACKSON: I asked if you have any suggestions how that could be curbed. You are

saying that unions should not be held responsible and I am asking you if you have any suggestions in your deliberations based on the experience you have had in the past how unlawful practices could be curbed.

MR. MURPHY: If they are unlawful, we cannot do anything about that.

MR. MacDONALD: If they are unlawful the individual can be sued in the courts. Mr. Murphy said that before.

MR. REAUME: In the overall picture I think one problem that worries a lot of people all over the world where there is growth and expansion of a union and in Canada, particularly, is the question of whether the union are accepting the onus of the responsibility that goes along with the growth. It was not long ago a certain union paper criticized the actions of a certain company for setting up a big fund for the purpose of trying to break the union. After that assertion and that article had been printed in this paper, it was found they were talking entirely about the wrong company. They had made a complete mistake. They said this company had set up this large fund, bringing people in from other places and paying them half as much as the union scale of work which actually hurt the character of the company and yet here was

no recourse at all on the part of the company and after all it was found out that it was not that company at all. They were talking about the wrong company and the wrong people.

MR. MURPHY: Companies do that against unions; you ought to see the actions and the suits that we could bring against companies.

MR. THIBAULT: We are failing to take cognizance of the fact of possible angles in the legislation. Before a union can legally strike it must go through certain legislative procedures. Therefore, once a union establishes a legal strike it should not be permissible for any company to utilize or attempt to continue operation. It is a struck plant. On the other hand, if the company desire to use the present legislation to establish a lock-out there is nothing that we employees can do to invade that plant to prevent the resumption of that operation. That is the cause of some of the unlawful violence that is referred to.

MR. ROWNTREE: There was Lever Brothers.

MR. THIBAULT: What is the protection in the light of the legal decision to strike and a company can create an invasion of that peaceful picket line, causing violence, and

then obtain an injunction to limit the picket line and curtail activities for the resumption for our operation until a settlement is reached or the strike is broken.

MR. MURPHY: You should make a set of Queensbury Boxing Rules.

MR. THIBAULT: And it should be the Queensbury Rules for both sides.

MR. MacDONALD: Getting back to the check-off, would you summarize your record of the check-off as to the companies who oppose it as being companies who are opposed, in fact, to unions as such.

MR. MURPHY: That is true.

MR. MacDONALD: That is one of the things to which they resort in trying to dissuade the union.

MR. JACKSON: Would the additional expense be a factor to their opposition?

MR. MURPHY: Some of those companies who oppose the check-off used to pay the whole expense so it is not a matter of expense. We have to represent each individual regardless of whether they are members of the union or not; we are compelled to represent them by the fact that we are certified but they should not legalize free loaders.

MR. REAUME: We have heard arguments about this thing, pro and con, and I would like to ask you what did you think was the main reason that a company opposed this? Is it a matter of bookkeeping; do they say it will follow up their books?

MR. THIBAULT: Their opposition is mostly based on the principle it is compelling an employee; that encompasses their whole reasoning.

MR. MURPHY: On the matter of expense, we have offered to pay the expense of this work.

THE CHAIRMAN: And you also say it should only be done if the employee authorizes it?

MR. REAUME: He signs a card.

THE CHAIRMAN: Is there anything else on this topic?

MR. JACKSON: I would like to point out if you were/to change your type of organization these free loaders would cease.

MR. MURPHY: They should be taxed whether or not they agree with the administration.

MR. JACKSON: Taking your example of a church do they tell you what you are going to pay?

MR. MURPHY: In this connection, even though it is a voluntary organization, there is no comparison.

MR. JACKSON: It was you who made the comparison.

MR. MURPHY: There is no legislation that makes a church represent you.

MR. JACKSON: That is what I said, there is no comparison.

MR. MURPHY: Not here; not in this instance.

MR. JACKSON: All I say is that I did not think there was any comparison in the first place.

MR. MURPHY: As far as the church, they do not have to represent any people.

MR. YAREMKO: You have used the expression that you are compelled by legislation to represent them.

MR. MURPHY: That is right.

MR. YAREMKO: Do you mean that in the pure sense; do you mean that you would rather not represent all the employees and that you would just represent those that voluntarily want you to represent them.

MR. MURPHY: If I would have the right, when we raise wages, to restrict it

only to union men, but we have to raise wages for the guy who won't even help us and since he gets all the benefits he should also have to pay.

MR. YAREMKO: You used the word compulsion -- you are compelled by the Act and that is a type of compulsion. You want to be able to represent all of them in a bargaining unit; you would not want to bargain just on behalf of those who are members of your union?

MR. MURPHY: Oh, no.

MR. YAREMKO: So your use of the word compulsion, you are just using that as a term of argument?

MR. MURPHY: It is a fact that the law says, you must represent all the employs; you are their bargaining unit.

THE CHAIRMAN: Once you are certified, you are.

MR. MURPHY: Once you are certified you are their bargaining unit whether they agree with the union and wish to pay dues or not.

MR. YAREMKO: That is a type of compulsion that you agree with; you would not want to have it any other way. Would you want the Act to read, you shall be the bargaining

unit only for those who want to become members of the union?

MR. MURPHY: No more than the City of Toronto would want to let some people out from police protection because they did not want to pay for police protection or fire protection. They would be a menace to the others if they were allowed to do that.

MR. ROWNTREE: Page 14; there is a reference to a decision by the Ontario Labour Relations Board that refusal to work overtime by a group of employees constituted an illegal strike. Do you recall that case, Professor Finkelman?

MR. FINKELMAN: Yes, I do. I have secured a copy of the decision. It was the Harding Carpet Limited Case and I would like, Mr. Chairman, with your permission to file a copy so that you will have the whole picture before you. With due respect to the Mine, Mill and Smelter Workers, they have given an interpretation of the decision which, to my mind, would carry the decision much further than it has gone. The decision is very carefully worded and is restricted to the circumstances of a particular case and I leave it to the members of the committee to judge whether this is a case where, to use the language of the brief,

"This surely is one of the most preposterous decisions ever handed down by the Board." We have, from time to time, undoubtedly handed down decisions with which the parties did not concur, but I cannot remember ever hearing them called preposterous. It was a decision in which I wrote the majority judgment for the Board and there was a dissent by Mr. Harvey. It was concurred in by Mr. Archer and Mr. Ferguson, concurred in my decision. I should put it this way: The Board which heard the case was composed of Mr. Irwin, Mr. Harvey and myself. We were the three Board members sitting on it.

7 As a matter of a very important principle came up and after judgment was written, I wrote the judgment for Mr. Irwin and myself, Mr. Ferguson indicating he concurred with the views expressed in the majority decision; Mr. Archer also indicated he concurred in the views expressed by Mr. Harvey.

MR. MacDONALD: In other words, in this case the two labour members on the board dissented?

MR. THIBAULT: I do note, in reading our brief, we have left the impression on page 14 in the section overtime work, that it was a unanimous decision of the board. I want to correct that; it was only a majority decision

of the board.

MR. YAREMKO: The reference is made and Professor Finkelman, in all modesty, referred to it, as a most preposterous decision. Have you a list of preposterous decisions? I say that in all sincerity. Are there other cases in which you believe the Board has made a preposterous decision?

MR. MURPHY: Undoubtedly I believe so.

MR. THIBAULT: We do not have that ready for the committee today, but if you want us to compile a list we are under obligation to the Committee to do so.

THE CHAIRMAN: Do you say that any decision given by the Board that does not concur with your decision would be a preposterous decision?

MR. MURPHY: Generally speaking, yes.

MR. REAUME: You must give him credit, he is honest about it.

MR. YAREMKO: Mr. Chairman, we appear to have reached the end of the brief, but there is a general question I would like to bring up in view of the fact that it is filed with the Committee; that is, the constitution of the International Union of Mine, Mill and

Smelter Workers. I notice the preamble to the constitution; I also notice the Objects on the back. Anybody who agrees with the trade union movement would consider that to be of a high level. In reading the preamble which I am reading for the first time, paragraph 3, "We hold that the class struggle will continue until the producer is recognized as the sole master of his product." Do you think that a relationship can be developed between management and labour getting along with each other when the other side is striving to be the sole master of the product?

MR. MURPHY: I would like to take this opportunity of saying this preamble was written by the founders of this union in 1893. We have made considerable progress since that time, but the fact is that we are still working for wages for somebody else that owns the industry and the product of our labour on that contractual basis.

MR. MacDONALD: Would you say that since 1893 they had outmoded the Marxinian analysis?

MR. MURPHY: I do not know whether this would be classified as a Maxinian analysis.

MR. MacDONALD: That is not answering my question.

MR. MURPHY: It would take a social scientist to answer your question.

MR. YAREMKO: If you are sitting down at the bargaining table opposite someone and this preamble is on the bargaining table, would you consider that to be conducive to bringing about a healthy co-operative basis of negotiating between management and labour? I know you use this expression where employers are strongly anti-union. I know there are some that are such. But does not this type of preamble commit you to this class struggle you speak of where your ultimate goal is to get rid of everybody on the other side of the table?

MR. MURPHY: I want to just say this: We never bargain on this preamble. Almost all the old established unions have preambles that are almost identical. They were necessary in order to be organized. In fact, trade unions were organized because this situation prevailed. There is no place where you feel more strongly on the question of who owns the industry and how little you have to say about it than at the bargaining table. The employer will tell you, I own this place and I run it, and you are working for me and if I do not need you you won't be around. You have no

interest in that industry and that is where you feel it; not when they go and make sermons afterwards by all of us being brothers in our happy little family. You ought to see the fights in our happy little family; you can be fired right out of that happy little family. That is where you see things as they are; at the bargaining table. This preamble has stood up through all the constitution since 1893 and we do not feel like amending it in any way. Nor would we change it. This is the foundation on which we have built and we have found it a pretty good foundation. Every union has much the same preamble. You should read the Machinist's preamble.

MR. REAUME: Are they exactly the same?

MR. MURPHY: Pretty well; some go even further. This was amended in 1916. "---the following constitution, to achieve everything by lawful means." That was put in later on. That is the decision of the union of Mine, Mill and Smelter Workers. You have to realize this union, like all other unions, were basically faced with the idea that being a member of a union was enough to cause you to be fired.

MR. REAUME: These things are, from time to time, changed; generally in Winnipeg

and there are other places where they change them.

MR. MURPHY: We are still being fired for being members of unions. The Master and Servants Act under which we had to live while we were being organized and that Act has never been repealed and is still in force. In fact, many eminent attorneys have argued that the Labour Relations Act must not be allowed to contravene the Masters and Servants Act. I think there is substantial law yet, when it is used, that there is a Master and Servants Act in our basic law.

MR. MacDONALD: The Attorney General, a year ago, appealed the Act not allowing the entry of horses to the exhibition so, perhaps, we will get around to this. It is about as inconsequential.

MR. MURPHY: When the Legislature repeals the Masters and Servants Act we may consider some amendment to this, too.

THE CHAIRMAN: I want to thank you very much, Mr. Thibault, and all the other members of your organization. You have been very helpful. I want to thank you for your presentation and that also applies to the charming

from Sudbury.

--- The hearing adjourned at 4.00 p.m. to resume on Tuesday, October 8th, 1957 at 11.00 a.m.

LEGISLATIVE ASSEMBLY OF ONTARIO

SELECT COMMITTEE ON LABOUR RELATIONS

Committee Room No. 1, Parliament Buildings,
Queen's Park, Toronto, Ontario

Tuesday,
October 8, 1957

JAMES A. MALONEY	Chairman
HAROLD PERKINS	Secretary
GEORGE T. WALSH, Q.C.	Committee Counsel

MEMBERS:

G. E. Jackson
Donald C. MacDonald
Ellis P. Morningstar
Raymond M. Myers
Arthur J. Reaume
H. Leslie Rowntree
J. W. Spooner
Albert Wren
John Yaremko
Robert Macaulay

APPEARANCES:

Mr. J. B. Metzler	Deputy Minister of Labour
Hon. Kelso Roberts	Attorney General
Prof. Harold A. Logan	Consultant

Appearances (Continued)

ONTARIO PROVINCIAL COUNCIL UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA

William Stephanovitch	General Representative
Edmund Boyer	Secretary-Treasurer
Wilf Hoult	President
George Masterson	Furniture Workers
Robert Lambert	
George McCurdy	Local 494, Windsor
Frank Hutvich	
J. G. Pesheau	Lumber and Sawmill Workers, Northern Ontario District Council
J. K. LaForce	
A. M. Welsby	Lumber and Sawmill Workers, Local 2693
Damien Labelle	Lumber and Sawmill Workers, Local 2537
Archie Weirmeir	
A. J. Campbell	Local 249, Kingston
L. Stark	Local 1619, Picton
W. A. Charlton	Local 397, Oshawa
E. R. Elliott	
T. Kerr	Local 38, St. Catharines
Paul Gagne	
P. J. Hansbar	Greater Niagara District Council
William Cockburn	Local 18, Hamilton
W. E. Rosamond	

---On resuming at 11.00 a.m.

THE CHAIRMAN: Gentlemen, it is now eleven o'clock. Today we are to hear from the United Brotherhood of Carpenters and Joiners and the Hamilton Building and Construction Trades Council. The Toronto Building and Construction Trades Council was scheduled to appear today but they have requested an adjournment to enable them to submit some further data.

The first brief is to be presented by the United Brotherhood of Carpenters and Joiners. Mr. Boyer?

MR. BOYER: Mr. Chairman, I should point out that we have twenty some delegates here representing the Brotherhood. I am the secretary of the Ontario Provincial Council and will be presenting the brief on behalf of the Brotherhood.

We have Mr. Stephanovitch who is our general representative, and we have Mr. Hutnik, Mr. Bonsard, Mr. Welsby and Mr. LaForce, who is past president of our council.

Before presenting our brief I want to point out that our brief was drafted quite early in the season and there will no doubt be a supplementary brief in answer to some of the questions referred to by the other committees.

THE CHAIRMAN: That is permissible.

You may proceed.

---(Mr. Boyer reads brief.)

MR. BOYER: As I pointed out, Mr.Chairman, we may be submitting a supplementary brief with reference to some of the questions that have come up before the Committee.

THE CHAIRMAN: You do not have any supplementary brief at this time?

MR. BOYER: Not at this time. We have not had time to prepare it.

THE CHAIRMAN: Thank you very much.

Now, gentlemen, dealing with this brief presented by the United Brotherhood of Carpenters and Joiners of America, are there any questions arising out of page 1? I think we can assure you that this Committee will be reporting back to the Legislature just as soon as it ispossible to do so. I believe it is the desire of all members to get this work over with just as expeditiously as possible, and I do not think you need have any fear on that score.

MR. BOYER: The only thing I can add, Mr. Chairman, is that I hope it is legislation in favour of organized labour.

THE CHAIRMAN: We do not make the legislation, of course; we just make recommendations. Any questions on page 2?

MR. MacDONALD: On page 2, Mr. Chairman, there is reference in the first paragraph to the effect that 75 per cent of the members are classed as seasonal employees. The thing that prompts my question is, during the tour of MPPs throughout the north attention was drawn to the fact that a number of lumber and sawmill workers in some cases were pulling down as high as $1100 a month, and the impression was left that this was the scale of wages. What would you estimate would be the average wage of one of your members?

MR. WELSBY: The last we heard it is about $14.56 per day. That is on the piecework cutting, the daily base rate is $11 and has just been increased by 8 cents as of September 1st, on the average daily work in the woods.

MR. MacDONALD: What is considered to be the average number of days worked in the year?

MR. WELSBY: Two hundred -- between 200 and 250.

THE CHAIRMAN: It is strictly not a matter within the scope of this Committee but I have no doubt that the members are quite satisfied that you should give this very valuable information.

MR. MacDONALD: Thank you, Mr. Chairman.

MR. SPOONER: May I ask a question before you deal with any more of the presentation? I would

like to ask if all the mambers representing the United Brotherhood of Carpenters and Joiners of America are also the spokesmen for the Lumber and Sawmill Workers?

MR. BOYER: Yes, our United Brotherhood is composed, as I point out in the early part of the brief, of lumber and sawmill workers, furniture workers, millwrights, veneer workers, anything that pertains to wood.

MR. SPOONER: The reason I ask you that is where I live the Lumber and Sawmill Workers Union -- that is in the Porcupine-Timmins-Kapuskasing area -- they are the ones we know of, and we do not hear, with due respect to you, of the United Brotherhood of Carpenters and Joiners. Now, where do they join with you?

MR. WELSBY: The United Brotherhood.

MR. SPOONER: They are part of it?

MR. WELSBY: Yes.

MR. BOYER: We have around seventy-five to eighty unions in the province. Some are lumber and sawmill workers. We refer to them as lumber and sawmill workers. Some of these people are furniture workers and are furniture locals, but we all come under the one name, The United Brotherhood of Carpenters and Joiners.

MR. REAUME: You are in fields other than woodwork -- once in a while you do get into

some other fields of business?

MR. STEPHANOVITCH: Oh, yes, we have approximately one thousand of our members who are engaged as millwrights, setting of machines and along that line, which is working entirely with steel and metal. We have in our organization pile drivers. Probably some of you have known people who work in building docks, working with concrete, steel and wood. We have industrial plants organized under our organization in the manufacture of aluminum doors and windows, and among them are people in the construction fields, and some of them are in the field of erection. Our jurisdiction is not neeessarily pertaining to wood, but any materials that replace wood or anything that is in need of carpentry skills.

Let me put it to you this way: we have a motto which we are quite proud of, and that is that we do everything from the stump to the finished product under the United Brotherhood of Carpenters and Joiners of America.

MR. REAUME: Talking about this part coming from the stump, where do you have the trouble and arguments? For instance, in the old days we always referred to the carpenter as always putting up the siding on the home. Nowadays we find with the advance of time that they are using aluminum siding on homes, and the metal workers are

entering into the picture. How do we get over that hump? Here is the question: The metal on the siding, is it the job of the carpenters union to put the metal siding on the house, or the metal workers?

MR. STEPHANOVITCH: It is claimed by the carpenters and in some instances it is not all metal siding alone that a dispute arises on. But, disputes do arise between various building trade crafts. As of recent date new arguments are being brought in because of the new type of erection and new types of materials, with the result that unions in a building job protect the craft of their own and will say that this work is entitled to be done by their members, and a dispute will arise. The building trade unions for numerous years have formed what is known as a Building and Construction Trades Department, and it is all the building trades unions in affiliation, and they have been confronted quite frequently with these disputes with the result that as of 1948 they have had a national joint board for the settlement of jurisdictional disputes, and this joint board, when the dispute is referred to them, all unions are supposed to do it through the constitution, send disputes to the board and this board issues decisions within a matter of two or three weeks as a rule and these decisions are

expected to be adhered to by the unions involved. In other words, the intent is this: a dispute arises, the job is to continue in the meantime until a decision is rendered and when the decision is rendered the union that gets the work goes ahead with it. The intent is there shall be no work stoppage and all disputes are settled without resorting to such methods.

MR. REAUME: You are now speaking of the board that functions where? In Washington?

MR. STEPHANOVITCH: In Washington, D.C.

MR. REAUME: Has there ever been any talk at all about bringing such a board into the Province of Ontario here?

MR. STEPHANOVITCH: Not that I am aware of. I think I can safely say that nearly every building trade has been approached. We have attempted ourselves -- and myself personally not too long ago to interest various employers to bring into being a meeting of the construction industry and the craft unions with a view in mind of sitting down and working something out. Too frequently what we have been confronted with in the Province of Ontario is this, the employers will sit back and do nothing until a dispute arises and then when it does they say, "You two settle it yourselves and we will abide by your decision."

The other argument advanced is -- let

us assume the thing breaks out into a wildcat strike, the employer only then will resort to the national board in Washington and get the thing solved, but once it is solved you never hear from them again.

MR. REAUME: About a week ago we had Mr. Pigott of Hamilton, and one of his big problems was one of these things you are speaking of -- all these arguments on the job between the trades. Has there ever been any effort on the part of employers and employees to sit down and work out some feasible scheme that will work in the way of settling these disputes on the job?

MR. STEPHANOVITCH: The only place that could possibly happen would be isolated business and the business agent of a craft union dealing directly with an employer, where the dispute arises. Dealing with the matter of labour and management both, no, it has not been done to my knowledge, nor any attempts made to do so. We feel the board in Washington has about nine years of experience under its belt; it has good men on the board which is composed, if I remember correctly, of four from labour, four from management and one impartial chairman, who, I understand, was a professor at one of the colleges in the United States. They are the ones who sit down and make these decisions, and being an international union in scope, and also the fact that the methods of work and the application of various things

are identical on both sides of the border. I hope the Committee here can readily understand that it will create confusion if another board was established in Canada.

For instance, let me point this out to you. I had an opportunity to very briefly go through the brief submitted by the construction industry, and I notice they feel tribunals should be set up, one in Windsor, one in Toronto, one at the Lakehead, one in Hamilton, one in Ottawa, and so forth, and these tribunals will have the right to make decisions on disputes that may arise in these given localities and subject to appeal to the Labour Relations Board. 2

Now, what kind of confusion and chaos would we have as compared to what is allowed to exist today, if, for instance, in Ottawa, some certain kind of work was given to a sheet metal worker and the next city gave that to the iron worker? You think we have chaos now? I hate to think what would happen if these tribunals were set up.

MR. MYERS: Could anything be worse than this, where there is an elevator in a nine-storey building and the operation of the elevator was claimed by two unions? The contractor was prepared to pay a member from each union to operate the elevator if the unions would consent, and they did not consent, with the result that five hundred

labourers had to climb nine storeys to finish a job for nine months. Now, that is what Mr. Pigott tells me has happened under the existing regulations, and I would like to know if you think anything could be worse than that?

MR. STEPHANOVITCH: I do not agree with what has transpired there. I think instead of waiting and bringing our problems to a committee I think our problems could be solved by labour and management sitting down together and saying, "Let us find a way to prevent these things." I do not agree with what you say. I do not think it is right.

MR. MYERS: I think you should have a right to refute every statement in this brief if it is not correct. Have you seen the brief?

MR. STEPHANOVITCH: I have gone over it.

MR. MYERS: I would very much like to have comments from you on every feature of that brief because I think it sets up the other side, and very well.

MR. STEPHANOVITCH: I would be prepared to.

THE CHAIRMAN: I am going to arrange for these men to come together.

MR. STEPHANOVITCH: I would be prepared to do that because I am as much interested in management as I am in labour.

MR. REAUME: If this board works in the United States, why would it not work here? I do not mean to have a board set up in Windsor, Ottawa and Toronto or anywhere else, but I am only saying we should do what they do over there, that we have one central board that would meet one day a week or in a state of emergency. If it was in Toronto it would be a government-sponsored board and what would be wrong with that type of board for workers over there?

MR. STEPHANOVITCH: Well, I do not believe, Mr. Reaume, that I agree with the idea of it being a government-sponsored board. I feel the government should, if it is humanly possible to do so, refrain from getting involved in it. I think you would be awfully darn sorry if you did that. I think it would be advisable to go into the field and get management and labour to sit down together because they know the problems.

MR. MYERS: What has management got to do with it? Why cannot the unions set up their own tribunal which will be a court of appeal in jurisdictional matters?

MR. STEPHANOVITCH: I think management should be involved. They are involved, they are a party to this. For instance, this joint board, one of the ways it operates down in Washington, a dispute arises on a job and it is management's

job to make the assignment of the job to whatever union or craft they think should do it. The unions that feel they should have the work are placed in the position of submitting in writing their allegations to this tribunal who in turn consider the facts and evidence and all those other matters, and then they issue this decision. Management sits on this board and they participate in the making of these decisions.

MR. REAUME: What is the actual board over there? Is it made up of members of employers? How many people are on the board and how many are there ---

MR. STEPHANOVITCH: Nine -- one an impartial chairman, four from labour and four from management. I think they call this the AGC, similar to our ACC in Canada.

MR. REAUME: It is sponsored by whom?

MR. STEPHANOVITCH: Voluntarily by the two groups. They do it themselves.

MR. REAUME: And it does function, it does function properly to work out these disputes?

MR. STEPHANOVITCH: Yes. I would say it has not eliminated jurisdictional disputes in their entirety, but I am sure I can say this -- it has done a tremendous job in eliminating many disputes that used to previously arise on various jobs. As a matter of fact, if I remember correctly, at the

last convention of the building trades, which was in Atlantic City either this year or last year, I am not sure of the date, they passed a change of the constitution to the effect that any union in the building trades that does not comply with any decision of the general board is subject to expulsion from the building trades department. They are getting serious now.

MR. REAUME: I was just wondering if the board over there functions properly. Would there be anything wrong in having someone from that board come here before our group for the purpose of explaining its functions?

MR. STEPHANOVITCH: I think it would be very advisable if you could get all these matters on jurisdiction, and hear all sides of it.

MR. REAUME: I wonder if there is any harm in asking these people, whoever they are?

THE CHAIRMAN: I cannot see any harm.

MR. REAUME: This is apparently one of the big things that we should look into, and if we can get advice from anywhere I think we should.

MR. STEPHANOVITCH: I would be inclined to agree with you.

MR. MYERS: I wonder if you could tell me why you think such a board could not be set up in Ontario or Canada?

MR. STEPHANOVITCH: Well, here is what

motivates my thinking: let us assume a board was established in Canada and it was run by representatives from management and also from unions, and they would have to grant decisions. Now, if some of those decisions were in conflict on matters which are similar to the type of work in the United States -- let us assume it is a project where a carpenter and a sheet metal worker are claiming a certain kind of set-up and let us say the decision of the general board awarded this one way and then over here they turn it around. Say in the States they give it to the carpenter and over here they give it to the sheet metal workers. Here are unions whose members do the same kind of work with the same kind of tools, and on different sides of the border the decision is different.

If you did establish a board I think you would have to establish one similar to the NLRB.

MR. MYERS: It was suggested by someone that we have international unions; why should we not have Canadian unions?

MR. STEPHANOVITCH: It is an argument we have heard quite frequently, and with some of the unfavourable publicity that unions have been receiving lately we are more than ever on our guard. I might add that when we hear something of that nature we look upon it only in one light, and that is the splitting up or weakening of unions. That is the

way we view it. We look to the day when we can be world-united, and if we protect our international unions -- some unions in this country if they were separated from their national association would not survive very much longer.

MR. MYERS: You see, in the matters of administration, by law we have in Canada, for example, a different kind of administration of justice to that in the United States, and if that is so, why would we not set up an administration of justice within unions and do it in our Canadian way with our Canadian ideas, and do it at least as well as it may be done anywhere else?

MR. STEPHANOVITCH: You would have an awful time attempting to convince us that this is really a good idea. I am not contradicting you, but we have been approached on this matter on various occasions, and there have been only two groups in Canada that have been consistently advocating the establishment of Canadian unions, and one is an employer group and the other is, I will not mention the name but everyone knows who it is. We view it as an attempt to split us or smash us. We feel there is growing strength in the international union status.

MR. MacDONALD: To what extent does the witness feel that there is a necessity for international tie-up of unions as long as there is such

an extensive international tie-up of corporations? Is that one of the main factors?

MR. STEPHANOVITCH: When you talk about international corporations I would say this, that our international union status has been beneficial to us in that respect.

THE CHAIRMAN: Well, it is entirely your own business.

MR. MYERS: Mr. MacDonald does recognize ---

MR. MacDONALD: There is Canadian affiliation of the union, and I am always puzzled why you want separation of one and not the other.

MR. REAUME: If you want to be part of a union over there it is your own business.

MR. STEPHANOVITCH: Quite frequently what motivates a lot of this thinking in the anti-labour group is when they say we should not be controlled through American headquarters. I can assure you today this is not the case -- this is not the case with the carpenters and joiners and I am certain it is not in the building trades union and many others. We are not told whether we can go on strike, or anything else. We are autonomous, and we are proud of the fact that we are a very democratic entity. Nobody infringes on our rights. We pay an equal per capita tax into the crafts in comparison with our American

brothers and we have all the rights and privileges under the constitution. If one of our members dies after five years his widow receives the sum of $600. If a man's wife dies he receives $250. We have all the rights and we are not in any way second class in the international union; they receive the same on that side of the border as we do here.

MR. MORNINGSTAR: I think another reason you hear something about these international unions is the fact of the money going out of the country. We hear that quite often, and I would like to ask is there much of the Canadian dollar going there?

MR. STEPHANOVITCH: You check at the Bank of Montreal and you will find our money is banked there.

MR. BOYER: I think it would ease your conscience a bit if I said this: the amount of money we send into the United States and the amount of money we receive in benefits, death benefits and so on, far exceeds -- I would almost say three to one -- of what we are sending to the United
3 States.

MR. STEPHANOVITCH: The cost of operating our unions in Canada, in comparison to the dues -- the money removed by the Canadian membership in comparison to what moneys are paid,

the expenses are larger than the incomings from the dues. We have a tremendous organizing campaign on.

MR. REAUME: There is not any question that in the early days of organizing here I suppose that the unions in the United States advanced plenty of the money for organizational expenses, and I think in the event of a strike over here, or something happening over here, a union from here could call upon the parent union over there to ask for help.

MR. MacDONALD: Mr. Chairman, could I return to this question of a tribunal of some kind or another to settle jurisdictional disputes? I think every member of the Committee is persuaded this is an important problem. Did I get you correctly when you said earlier that the submission of a dispute referred to the committee in Washington was usually arrived at within at least a two or three week period?

MR. STEPHANOVITCH: Yes, I would say so.

MR. MacDONALD: Well, if that is the case how can that avoid stoppages of work on a project in Canada if it takes as long as two or three weeks to settle it?

MR. STEPHANOVITCH: How can it?

MR. MacDONALD: Yes.

MR. STEPHANOVITCH: Well, the constitution

of the building trades sets out that pending a decision from this board the work will carry on, both unions will carry on with whatever assignment of work they have. That is the intent of it. Mind you, there are occasions when a wildcat does break loose and they are given instructions through the presidents of their unions who advise them to get back to work or we would not deal with them unless they do.

MR. MYERS: How many disputes have been settled from Ontario or in your jurisdiction; do you know? Are there many?

MR. STEPHANOVITCH: I do not know how many.

MR. MYERS: In a year -- ten or one hundred and ten or a thousand?

MR. STEPHANOVITCH: I would rather check and give you a proper figure.

MR. MYERS: Could you give us some figure showing the number of disputes referred to the joint committee and the delay before they were determined?

MR. STEPHANOVITCH: Yes, I can get that information for you. I would say offhand that possibly this year so far there might have been possibly twenty at the most -- twenty-five disputes involving our organization.

MR. MYERS: What I want to know is, how

many disputes in 1957 would you refer to the joint committee, and was there any stoppage of work in any of them, and how long did the joint board take to render a decision? Could you get me that?

MR. STEPHANOVITCH: I can try to.

MR. YAREMKO: I think that would be a very important piece of information for this Committee to receive because the construction association in their brief allege on page 15 the following:

> "Jurisdictional disputes between
> "one or more unions usually result
> "in a work stoppage by one or more
> "of the unions concerned."

They use the word "usually", so I think the only way we can really resolve the problem is by getting the statistics, the number of jurisdictional disputes in the last four years, say.

MR. REAUME: Well, I suppose if we were to have these men here from Washington before the Committee they would have all that information with them.

MR. STEPHANOVITCH: That would be first-hand information.

MR. REAUME: Here is a strange thing, here is a board in the States set up and functioning to please both employer and employee. That is a strange thing, but it is true, and having that fact

before us I think it is all-important that we ought to invite these people here to see how this thing works.

MR. MYERS: In particular, I would like the brief presented by Mr. Pigott to be refuted. To me that is a very important brief, and if it is not true I would like you to tell me so.

4 MR. STEPHANOVITCH: I cannot offhand, as I said, give you the amount of them. This committee comes up in the United States so you go down, and I know they can give to you first-hand information. I believe you will further find that each one does not bring out any dispute for this reason. Since the spring of this year it so happens our organization has been involved ten times in disputes with the iron workers and each time there has not been one stoppage of work, and there has been a resolution of our trouble. I can give the names to you and you can check them and you will find no stoppage of work existed.

MR. MYERS: I want to be able to check what you say and I want Mr. Pigott to be able to check what he says too.

MR. MacDONALD: Have we formally decided to ask somebody from this committee in Washington to come up here?

THE CHAIRMAN: Mr. Reaume asked if there would be any harm in doing it and I said there would

not be any harm.

MR. REAUME: Or we go down there.

MR. MacDONALD: Well, one or the other, but if we are having somebody to give us evidence on the functions of this committee I think they should be warned in advance to pull out cases and suggestions and statistics with reference to Canada, because I suppose it is fairly readily available.

MR. MYERS: I want them all, not the available cases.

MR. STEPHANOVITCH: This board, as close as I can estimate, sits on an average of about three or four days a week each week rendering its decisions. There are times it is not too busy, but it handles decisions throughout the United States and Canada and you can readily understand the largest portion, I would say ninety-five per cent of their work comes from the United States because of the population there. If we establish a board in Canada similar to this I would venture to say they do not get ten decisions a week. If you establish a board you would need people from labour and people from management and an impartial chairman, and if they meet one day a week they are not going to be able to function and they will say, "Let us meet one day a month," and if they do that the people who are working on the job, they are getting riled up, having to wait three or four weeks, and you

will cause a hell of a lot of dissension there.

MR. MacDONALD: If this is a committee for Canada as well as the United States should they not have representatives for Canadian labour and Canadian management on the board?

MR. STEPHANOVITCH: That is exactly what I proposed to a group of employers at one time, why do not the CAA in Canada get representation on the board. May I read this out? This is an agreement that we have made with the Ontario Millwright and Contractors Association. It is a province-wide agreement.

MR. MacDONALD: What is that, the iron workers?

MR. STEPHANOVITCH: No, this covers our millwright workers in the Province of Ontario and it states:

> "Any jurisdictional dispute
> "that may arise on any job or
> "between the United Brotherhood
> "of Carpenters and Joiners of
> "America and any other building
> "trades union that is affiliated
> "with the AFofL-CIO building and
> "construction trades department
> "shall be settled by submitting
> "the dispute immediately to the
> "national joint board for settlement

> "of jurisdictional disputes for "a decision.
>
> "And the decision rendered "by the national joint board for "settlement of jurisdictional disputes shall be recognized and "immediately implemented by the "employer."

MR. REAUME: It is binding?

MR. STEPHANOVITCH: That is right. All we are saying, the disputes arise and irrespective of whether we are doing the work or the other union, once a dispute arises the work proceeds, it is referred to the board and whoever gets the job we abide by it.

MR. REAUME: That is a good clause.

MR. BOYER: That is in a large number of our construction contracts already. It is pretty well a general clause throughout the province.

MR. WREN: Could you tell me if there are many jurisdictional disputes developing in the construction trades which are never referred to the board?

MR. STEPHANOVITCH: Unless it is settled on a local basis, generally no. Sometimes there is a reluctance of some unions to submit it, but generally speaking it is referred to the board.

MR. WREN: Another question: How many

craft units would there be that do not affiliate themselves with the AFL-CIO and therefore do not come under it?

MR. STEPHANOVITCH: All of the building craft trades are affiliated; they are all in it.

MR. METZLER: I have a couple of questions I would like to pose to Mr. Stephanovitch purely as a matter of getting a little information.

This national board for the settlement of jurisdictional disputes apparently has two types of jurisdiction, national and local. Is there any effort made to apply, say, a decision on a national basis to every situation of a similar character that might arise where the parties are affected? As I recollect, a statement was made by the Construction Association that a decision in respect of a jurisdictional dispute was limited in its application to one particular job and it was not general in character, and, therefore, it did not serve as a precedent to settle similar incidents that might arise in other locations.

MR. STEPHANOVITCH: That is quite true. This board does operate on the basis that any given dispute on any given job where a decision is granted it says that this decision is binding on this job only. However, let us assume for a period of time similar types of disputes are referred to the board. A pattern is built up as to who gets the

work. Over a period of time we have had a dispute with the sheet metal workers on corrugated asbestos siding that built up and the carpenters kept getting the awards and eventually the board figures this and recognizes that this is happening and these two international unions involved realize the situation and sit down and work out an agreement between them. That is also another trend that is entering the international union situation, generally where they have been in dispute for years and they sit down and meet and make the necessary agreement.

MR. YAREMKO: Is the board a government board or just a board set up by a private arrangement?

MR. STEPHANOVITCH: Set up by management and labour.

MR. MacDONALD: Who pays the officials?

MR. STEPHANOVITCH: Both contribute to it.

MR. YAREMKO: So it is a board set up outside of any legislation in the United States?

MR. STEPHANOVITCH: That is right.

MR. BOYER: In answering Mr. Metzler's question, there has even been a change in the policy of the national joint board recently where not job decisions but area decisions are given, and through that method they feel that the international unions can then sit down and draft the agreements on

jurisdictional disputes between the two unions. For instance, the iron workers and the electricians on some various points signed this international agreement between the two international unions.

MR. YAREMKO: Have there been any overtures in the United States to bring this voluntary board within the scope of any legislation, labour legislation, in the United States?

MR. STEPHANOVITCH: No, not that I am aware of.

MR. LOGAN: May I say something?

THE CHAIRMAN: Yes, Professor Logan.

MR. LOGAN: I think under the Taft-Hartley Act there, the federal jurisdiction does not cover similar matters in the United States, but under the Taft-Hartley Act they have in the course of time paid a lot of attention to this national joint board to the point of agreeing that if the industries themselves, management and labour, could develop a voluntary arrangement to settle jurisdictional disputes then the Taft-Hartley Act, under that Act they would not hold a hearing to deal with the matter.

This joint board has been recognized during the last few years. I do not know just when it came into being; it was since 1948 that matters would be left to the national joint board. There would be no hearing, the hearing would be

quashed -- I think that is the expression -- so long as the national joint board was giving an accounting of itself. However, if the national joint board really failed -- and I am sure of this, if the parties refused to recognize the national joint board decision then it would be a matter for the National Labour Relations Board to hold a hearing on that.

I think they have come to the point at the present time that these matters have been substantially left to the national joint board. I think there are some twenty-five or so general decisions which have come out and which are recognized as general principles.

I had some correspondence with the chairman of the board before he went to Europe, but I understand that chairman has now resigned and I believe has recently been replaced by a new one. Over in the Department we have a copy of these things and probably you have too.

MR. YAREMKO: You see, Mr. Chairman, my reason for questioning along this line is this: it has been recognized, I think, by all members of the Committee that this is an important Act having to do with labour relations and the problem the Committee will have to deal with eventually is, in what form do our recommendations take place, if any? Is it being submitted there should be legislation to cope with this type of situation?

MR. STEPHANOVITCH: I did not follow your question, if it was directed to me?

MR. YAREMKO: As a result of the construction association brief and your representations and the fact that such a board does exist, is it your submission that there should be legislation which would get over the setting up of such a board out of legislation, or as Professor Logan has just stated, to set up legislation which would be effective for a voluntary arrangement to be entered into between management and labour with a view to resolving jurisdictional disputes?

MR. STEPHANOVITCH: I would answer that by saying: I believe first of all before any legislation is made an opportunity should be given to management and labour to try and put their own house in order in respect of jurisdictional disputes. Failing that, then possibly the Legislature may have to take steps, but I think before they do, it would be very wise to get the two parties together and let them work something out. I am quite sure if given that opportunity -- here is something, if you have a plan or settlement of these disputes, here is something that possibly all the wrinkles can be ironed out of and we can possibly work under some system or attach ourselves to this board, and we might find an answer to our problems. 5

MR. YAREMKO: The difficulty you might run into is that if legislation were set up to take effect if voluntary arrangements were not successful we would have to set up legislation within our province to deal with a voluntary arrangement which would exist outside of the country, if we did not have a voluntary arrangement with a board within Ontario itself.

MR. STEPHANOVITCH: I can only say this to the Committee: again I reiterate -- let the two groups work it out because the Legislature in my opinion -- I think the board has information on this too -- that if you get into this field and legislate within it you are liable to be very sorry because you are going to have to get very competent people to deal with jurisdictional disputes, and I think there are one or two provinces in Canada who certify on the basis of what is contained in a union's constitution where one union cannot go into another field and organize, so it may be a borderline case.

I understand that the Labour Relations Board have been sorry they got into that mess.

MR. METZLER: I could not say too much about it, but I believe in British Columbia a strict adherence to the constitutional jurisdiction of the particular trade union is entertained. In Ontario, however, if you will look at Section 3

of the Labour Relations Act you will find the statement is made that every employee is entitled to belong to the trade union of his choice and to participate in its lawful activities, so we do not adhere to the basic limits that may exist in the particular document.

There is another thing that I would like to draw to the attention of the Committee, and it may get from Mr. Stephanovitch and his associates a statement, and that has to do with the question of the existence of building trades councils. As you must realize, the craft units in the construction industry are organized legally into building trades councils. We have a very strong building trades council here in the City of Toronto, and I believe you have another very strong one down in Windsor. Those areas where the craft units have been well established bargaining rights have got together and set up a building trades council within the jurisdiction because it is purely a voluntary association.

Within this association they are endeavouring to operate in the best interests of their trade crafts, and if this problem or dispute arises in respect of craft unions, it does not arise, I would imagine, with regard to the lumber and sawmill workers' aspect of the United Brotherhood of Carpenters because that organization is largely

set up on an industry-wide or an industrial basis, but the situation to me is a thing that I think should possibly be pointed out, that within the building trades council there are representatives of other organizations that may be disputing amongst themselves, particular jurisdictions -- either different jobs of work or the use of different materials in the construction industry.

I am perhaps thinking out loud, but it is a voluntary sort of thing. Is there any hope that as this national joint board develops and as its jurisdiction over these disputes and decisions come down, is there any hope that there may be an effort on the part of the building trades council to sort out amongst themselves the jurisdiction over particular jobs of work. If they were then you might find a partial answer to the problem without disrupting the international character of the trade unions?

MR. REAUME: Oh, with all deference I think that would bring about the finest argument. That is my own impression of it.

MR. METZLER: They are there -- those building trade councils are there.

MR. REAUME: I know, but in the makeup of the council you have carpenters, bricklayers, plumbers and all kinds of people, and naturally the people there are going to be fighting for their

unions within the framework of the trades council, and I think therein lies where you would find the argument. I think you have to broaden it out because if you do not ---

MR. MacDONALD: Let me ask Mr.Stephanovitch this question: In the Builders Exchange brief they suggested -- in fact, I think they stated in no uncertain terms that the resolving of jurisdictional disputes through the Building Trades Council just was not successful. Is that your view?

MR. STEPHANOVITCH: I think the reason for that has been, as I said earlier, too frequently the employers have taken a stand when a dispute arises "You settle it amongst yourselves and whatever you do with it we will abide by it," but they would not enter into a matter which did affect them because under the joint board the employers are part and parcel of that board and sit right on it and help make decisions, whereas over here they are reluctant to do so.

MR. MYERS: The joint board are clothed with judicial authority and I think if you spoke to an employer who was building a building and there was a jurisdictional dispute they would tell him to get out, he had no standing. That is quite different if a man is clothed with judicial authority and is a member of a board and not just a man who butts in.

MR. REAUME: Mr. Chairman, I am going to move, seconded by Mr. Wren, that we invite one member from the employers and one member from the employee section of this joint board to appear before our group at their earliest possible convenience.

THE CHAIRMAN: Mr. Reaume moves, seconded by Mr. Wren, that a representative from the national board, one representing management and the other representing labour,be invited to appear before this Committee.

MR. MacDONALD: Mr. Reaume, would you object to the rider that when these gentlemen appear they be asked to come with their records in, say, the last four years with regard to jurisdictional disputes with regard to Canada?

THE CHAIRMAN: That is perfectly all right. All in favour of the motion? Carried.

MR. MacDONALD: There is one point here. I do not think it is a question, but a comment on something that I think we should recognize. There is a new point that has emerged here in the statement of this group, and that is the statement of this jurisdictional dispute. It is not as the Builders Exchange said raised exclusively with the unions at all; it is a joint proposition. The American experience suggests it is a joint proposition, if you are going to succeed, because

of the very structure or constitution of it.

MR. STEPHANOVITCH: It is in keeping with what Professor Logan stated earlier, a voluntary organization which is doing a good job.

MR. MYERS: It should be voluntary.

MR. STEPHANOVITCH: Well, you cannot legislate common sense and goodwill and that is what is needed in an instance like this.

MR. MacDONALD: When the Builders Exchange come before us in the joint meeting I think we should ask why they feel they have no role to play in it in Canada, because in their argument they are arguing against seasoned experience that has been built up in the United States over the last few years.

MR. STEPHANOVITCH: There is a lot of argument from the employer groups that develops through the press that this emanates from Washington or the United States and they do not want any part of it, that it is an infringement of our civilian rights, and I do not think it is. We by the same token are fearful when we hear these things about divide and conquer, separate us from the international union status, eliminate us from interest in other trade union matters, and we are afraid of that and we are very adamant in fighting against such moves.

MR. MacDONALD: Are we still on page 2?

THE CHAIRMAN: As far as I know.

MR. MacDONALD: At the bottom of page 2 there is an equally knotty problem I would like to ask a question on, and that is the inaccessibility of areas for trade union purposes and so on. I presume this relates primarily to the lumber and sawmill industries. Basically the problem here is that legally these companies, I am told, have pretty complete proprietory rights, if that is the correct legal term. Has the union come up with any solution as to how, without infringing unduly on these proprietary rights, they can get sufficient rights to be abled to operate under the Labour Relations Act?

MR. STEPHANOVITCH: I can give you some answers to it, and by the same token, some who are well versed in it -- Mr. Welsby and Mr. Pesheau are here today. From my own experience I would relate a little of it to you and I would ask them to do likewise.

Out of our Toronto office I have operating five international representatives, organizers. Here some two years ago they went into one particular camp of people working in the bush. Mind you, now, these lands, as I understand it, are leased and they build themselves a road into the limits and put up shacks and things to work cutting pulpwood and timber.

Our desire, as you can readily understand, is to organize these people as we have an obligation, we feel, to the employers who are already organized and are under agreement themselves, and we consider these people as employers who are operating in unfair competition, and if they are allowed to exist they will put the fair employers out of business. We go in and attempt to organize these people.

One particular instance -- one evening two of our organizers drove in with their cars into this camp. There were two camps. The first car stopped at the first camp and the other car continued on the road about five miles to the second camp. As I understand it -- and it is very difficult to substantiate it -- some way or other word got back to the employer involved and when our organizer was returning from the second camp there was a bulldozer across the road and he could not get by. Had one of the parts of the machine been in place he could have driven it off the road, but before he had any chance to do anything they came after them and the only thing that saved him was the fact that when a guy swung an axe at him a part of the door of the car took the smash. They did a job on his car, put sand in the gas tank, smashed the lights and everything else and he was forced to walk out of there, about

eighteen degrees below zero and twenty-two miles from camp. He got down to the next camp and happened to find the other organizer and these people had taken the tires off his car and I believe the Ontario Provincial Police came in and they tried to get a ride from them and they said they could not carry passengers.

That is not an isolated instance. We run into it lots of times, almost every time we attempt to organize.

MR. REAUME: I am going to ask you a question: where a man swings an axe at another man and ruins his car, is he not able to bring a charge against that man and bring him to court?

MR. STEPHANOVITCH: We attempted to do it. I think we had a very difficult problem in doing it because of trespassing.

MR. REAUME: Even so.

MR. YAREMKO: You cannot swing an axe at a trespasser.

MR. STEPHANOVITCH: I think Mr. Pesheau and Mr. Welsby can give you some material on these cases that we have had in Northern Ontario.

MR. WELSBY: Nothing happened, but we do not feel that we received justice.

MR. MYERS: What did you do, how did you try to get justice?

MR. WELSBY: In that particular case?

MR. PESHEAU: In that particular case two of our members did prefer charges; however, the charges were not strong enough to do anything about it. The man that swung the axe was let off free and nothing was done about it.

MR. WREN: Where did you prefer charges?

MR. PESHEAU: In the court at Hearst.

THE CHAIRMAN: Did they appear in court and was there a trial?

MR. PESHEAU: Yes, we did not have sufficient evidence. We only had the two organizers and I think the company had at least half a dozen witnesses there on their behalf.

MR. MYERS: What did the other side say? How did they account for your car being smashed up?

MR. PESHEAU: They just denied the fact that they did it. It was a dark night, no lights in the camp and nobody could identify the other persons.

MR. WREN: What company was that?

MR. PESHEAU: J. D. Levack Lumber Company.

MR. STEPHANOVITCH: This is something that is increasing. It seems now that every time an organizer attempts to go into a camp the people in these camps are denied their rights under the law, where they have a right to join

unions of their choice, and an organizer cannot go in.

MR. REAUME: Do you mean entering in during the hours they are working or ---

MR. STEPHANOVITCH: That is his home.

MR. REAUME: I know, but are you going there after hours, working hours?

MR. STEPHANOVITCH: I do not think it makes any difference.

MR. REAUME: I am just asking that, if you were to go after hours the man's home is there and you have a right to go there.

MR. STEPHANOVITCH: I agree you have the right but they have a gate across the road, a barrier, and when you drive up to it there is an individual in a little shack, like a watchman, and he asks you your business.

MR. MYERS: If the man drives up to that gate after working hours is the gate to keep him out?

MR. STEPHANOVITCH: That is right; he is denied entry. What we are forced to do in many instances, we are having to charter planes and fly the men in and they sleep in sleeping bags and get in contact with the men. They walk in eighteen or nineteen miles through swamp to see these people, and once they are in the Provincial Police are usually called to escort them out.

MR. MacDONALD: Have you ever been charged a toll to go through these roads?

MR. WELSBY: Yes, we have.

MR. PESHEAU: The Ontario Paper Company at Hearst have charged -- I am not sure whether they are charging now -- a toll on their road.

MR. REAUME: To everyone who passes over?

MR. PEsheau: Everyone who passes over.

MR. YAREMKO: Have any of the companies laid a charge of trespassing against your organizers?

MR. STEPHANOVITCH: I am not personally aware of that.

MR. WELSBY: I do not know of any.

MR. MYERS: In some of these cases, not only in the pulpwood areas, but on a building job, an employer may have a contract to do a stipulated amount of work at a fixed price, and then the union comes in and the wages are raised. Is there any attempt made to have any collective agreement which may be negotiated effective only at the termination of some period or some amount of work which the contractor is already under obligation to complete at a fixed price?

MR. STEPHANOVITCH: It always works itself out in negotiation. I know of instances where it has been done on completion of a certain project. It is all a matter of negotiation.

MR. MYERS: I know a man who does sheet metal work and who is faced with ruin because he depended on a job and he is going to have to increase his wages.

MR. STEPHANOVITCH: It works both ways. There are cases where they tender on jobs at the union rate and if they can get away with it they pay a lesser rate and take a chance with what they have.

MR. BOYER: Also there are negotiations -- first of all, if it is a new certification, the lengthy process that you go through before you reach your agreement, the contractor in many cases could have ten jobs finished before you reach an agreement. Also, if it is a renewal of agreement you generally have to give sixty to ninety days' notice prior to the termination of the agreement. The employer, at least if he does not, he should anticipate that we are not going to sit still and he makes sure there is enough on it, and in many, many instances -- I would say in my experience in the last five years I have never run across too many agreements -- I have not run across too many agreements where the agreement expires on April 30th or May 1st and the agreement is signed by then. It is more likely to be four, five or six months later before it is signed.

MR. MacDONALD: You generally do not have continuity ---

MR. BOYER: One of the problems is the question of retroactive pay. The employers say there is a great change of employees and they say, "Well, we cannot find these guys; how are we going to pay them retroactive pay?"

MR. REAUME: That could be true.

MR. BOYER: In construction there is very seldom retroactive pay.

MR. STEPHANOVITCH: Let us say the agreement is signed nine months after the expiry date and you ask the employer for retroactavity and his argument is, "How can I do that? The job is completed and I have been paid for it. Do you want me to go back to the former owner and get additional moneys to pay you?"

MR. WREN: Getting back to the access on the crown lands, I think the problem here enters upon a question where this Committee, I would respectfully submit, may have to make some representations to the Legislature to be directed to other departments. First of all, it is bad policy, I submit, particularly in the north country, to have Crown Attorneys who are engaged in part-time positions by the Crown where they have to accept other briefs to make themselves a living, and as a consequence I think it is only human nature they become somewhat prejudiced.

The second case is in the operation of

the crown timber limits themselves. The companies are obliged to build the roads and naturally they feel some proprietary ownership. I do not think personally that should be so. I do feel that some consideration might be given to a recommendation that these roads should be made available to the general public and if the companies themselves are required to pay for them perhaps everyone should pay a toll and everyone should have access to it.

The other is the question of fire protection, which is a very serious matter indeed, and companies do not like it when they are, as they are now, required to pay the full cost of extinguishing a fire. They feel it is dangerous to let people go in in an unrestricted way and perhaps cause fires. I think in a case like that some means should be found to have the Crown responsible for all fires.

MR. MacDONALD: Well, that ---

MR. WREN: Just a minute. Most companies -- I think the reputable ones at least -- do not use those tactics to keep labour organizers out but there are some that do, and they are just like the mine people, in some rare instances, who like to feel it is their right or proprietary interest to have a fence around the people who work for a living, and I think that is horrible. I think especially people who are given a right to operate

on Crown lands, they should not think by the fact they are operating on these properties that they own them. I think, as I said here the other day, the time is coming when we have to give some thought to getting rid of these concentration camps because it defeats the Labour Relations Act altogether. I think that is the crux of the problem.

MR. MacDONALD: If I might pursue one specific aspect of that -- it is not the forbidding of a person from travelling any roads because of a high fire hazard. That lies, and perhaps rightly so, with the Department of Lands and Forests.

THE CHAIRMAN: Undoubtedly.

MR. WREN: In some respects.

THE CHAIRMAN: That is what Mr. Wren said. We would probably have to make recommendations with regard to the other departments.

MR. WREN: I know of a company right in my own bailiwick who, at the end of the fire season, find themselves on the edge of bankruptcy through a very disastrous fire, a fire that took just a matter of hours to go through their limits, and it practically put them out of business. That can happen very quickly. As long as we as a Legislature insist that the company have to pay all those charges, in commonsense we must feel that they would want some right to know who is going in and out, so they can control that hazard

to some extent. I do not think the companies should have to assume all that; some general scheme should be set up to cover it.

THE CHAIRMAN: I am quite sure if you bring that matter to the attention of the members of the Legislature in your own inimitable fashion deliberation will be given to it, but I cannot say that it interests this Committee.

7 MR. WREN: It does, because unscrupulous employers are using these rights to thwart the very intent of the Labour Relations Act.

THE CHAIRMAN: I think you said in isolated cases.

MR. REAUME: It gets us back to the very principle which is this, that a man working in a camp is living in that camp, paying rent for the space he occupies as a home while he is in the camp. Now, how can you stop anybody from visiting that man in his own home I do not know.

MR. STEPHANOVITCH: It is being done and he pays room and board, around $2 or $2.25 a day.

MR. MYERS: Are lumbering operations carried on only in the winter or are they carried on at the time of the fire hazard?

THE CHAIRMAN: It is a year-round operation pretty well.

MR. STEPHANOVITCH: I think lumber and

sawmill is in the summer ---

MR. WELSBY: It all depends how it is going, but normally our busiest time is from July to March and there is a slow-down period. That is not with every company, but in general throughout the industry that is it.

THE CHAIRMAN: Anything else on page 2?

MR. YAREMKO: In regard to these percentages, we can recognize that under the circumstances as outlined on page 2, to get that regulation 55 per cent is in itself a tedious job, but would it be much easier if it were reduced to 51 per cent? Is the difference between 51 per cent and 55 per cent such a big difference?

MR. BOYER: Well, I think in answer to that part of the problem, I suppose 51 per cent would make it a little easier, but in essence what we are trying to emphasize is this, the men -- I am speaking especially of Northern Ontario -- the men have to walk maybe seventeen, eighteen, nineteen or twenty miles; you never know what it is. He goes in there for maybe a week or two weeks and by the time he gets out and makes his application and so forth quite a large amount of time elapses by the time he mails it into the board. Generally what happens is they come out towards the weekend, maybe Thursday, and he will make his application and put it in the mail. This will not reach

the Board until Monday or Tuesday and that is the date that counts. In the meantime the employer has a golden opportunity to lay men off and so forth. I should not mention names because the case is still pending before the Board, but we have a case up in Chapleau where we signed up the men, we made an application, the company got drift of it and when we -- at the time the letter reached the Board the company did not have a man on the payroll. Today he has a whole, complete new crew which he hired from another area. If it had been a date that we could have some way of saying, "Well, this is the date," we would have been all right.

MR. YAREMKO: Then that is not a problem with regard to percentages. Your problem really lies in a different aspect of the certification procedure.

MR. BOYER: Well, 51 per cent to 55 per cent, it is only a four per cent difference.

MR. YAREMKO: How many collective agreements would you say roughly ---

MR. STEPHANOVITCH: Agreements themselves?

MR. BOYER: I would have to count. I would think in the thousands.

MR. YAREMKO: A hundred or a thousand?

MR. STEHPANOVITCH: It would be in the

hundreds because each local union has a general rule has, in some instances they have more than one. I would say up around one hundred. In some instances one master agreement covers one hundred employees.

MR. MacDONALD: The lumber and sawmill at the lakehead have scores themselves.

MR. WELSBY: I would say we have well over one hundred ourselves.

MR. STEPHANOVITCH: That is not the general practice. In industry all the groups in the City of Toronto have a district council and possibly seven local units and they go to the Builders Exchange and they cover a geographical area of about twenty-five miles.

MR. YAREMKO: What I was leading up to was this, the problem as you stated here -- could you give the Committee roughly an idea of in how many instances you failed to either get certification or that you got yourself into a position to apply for certification? You see, we would have the statistics and the number of applications made by all unions in respect to the 45 and 55 per cent. What I want to know is, in how many cases did you not apply because of the requirement of the certification procedures?

MR. STEPHANOVITCH: It would take a lot of research.

MR. YAREMKO: You try to organize a particular group of employees and you do not succeed in getting certification for these employees. What percentage roughly of such instances would there be in regard to the number of applications which you finally submitted to the Board?

MR. STEPHANOVITCH: I know what you mean. It would be very difficult to obtain it. The reason I say that is our local unions in the province here, their own business agent as a rule through the international representatives -- their council representatives, and so forth -- would practically have to go to each and every one and say, "Within the last two years did you have an instance where you could get certified but did not due to the fact of the 45-55 per cent?" They do not usually keep records of that; they go out and try to organize a given area or company and failing to obtain it they step back and wait for a later date or something of that sort.

MR. MYERS: What do you think, Mr. Metzler, about the effective date of an application for certification?

MR. METZLER: I think it should be said that the Board must apply a general rule; they cannot have one rule for one type of industry and a different rule for a different type. What happens is this: as soon as the correspondence,

which may be an application, comes in, it goes to the particular officer and it is stamped with the particular stamp saying "Filed", so that is the filing date. Now, that is the date that the Board establishes as the basis upon which it is going to conduct its operations.

In respect of a particular case, for instance, there may be a certain amount of difficulty. Mr. Stephanovitch, or one of his organizers of the lumber and sawmill workers, may go out to Hearst, Ontario, and mail a letter to the attention of the Board, and it may not reach us for two or three days because of the rather remote position of Hearst in respect to mail, and possibly trains, or the thing may not reach us at all. What are we to do if it is lost in the post, how are we going to establish it?

MR. MYERS: Have you had an example in Southern Ontario of employers firing a lot of fellows between the date of the posting of the application and the date of its receipt by your Department?

MR. METZLER: I suppose there have been instances where reduction of work forces have coincided with the filing of applications for certification. I do not know whether you are going to call them firings or lay-offs. I just say that there have been situations where such

things have occurred. We do not know whether they are to be considered as done with the intention of affecting the outcome of an application for certification. I would not want to make a comment on that.

THE CHAIRMAN: Do I understand, gentlemen, that you feel that much of this difficulty would be cured if the time was to start from the time the application for certification was mailed?

MR. MYERS: The difficulty in establishing ---

THE CHAIRMAN: Just a moment. Is that your position?

MR. STEPHANOVITCH: We feel it would assist very much because, as outlined in our brief, we have not gone into it too heavily, as you will note, but we are increasingly running into more and more instances where either layoffs or indiscriminate firings or intervention is filed, and the percentage is gone. It is becoming so, if you are not a lawyer, you had better hire one to go before the Board to fight because it is getting that difficult, things are getting so highly technical down there. I do not blame the Board for it, but lawyers are appearing and we as laymen are finding it difficult.

THE CHAIRMAN: As I understand it your problem is this, from the time you go out to organize it and the time you mail it and the time it arrives at the Board that the employer can in the meantime, by the time it gets to the Board, show that he has no employees at all?

MR. STEPHANOVITCH: Yes.

THE CHAIRMAN: You think that could be cured if we were to recommend that the time should start to run from the time it is mailed by registered post?

MR. STEPHANOVITCH: I would say so.

MR. BOYER: It would help considerably. What we are trying to strive for is, supposing a person lives in the City of Toronto, he signs a group up and takes his application and in five or ten minutes he could have it in the office that very same day. Now, a person in an isolated area cannot do that.

THE CHAIRMAN: I just wanted your recommendations on it, and to summarize it that is your position?

MR. STEPHANOVITCH: What it amounts to is simply this. Let us assume you have gone into a spot and done some organizing. The way the Board operates they receive this application in Toronto and effective as of that date they notify the employer and ask for the names of all

the employees as of this date. In the interim, let us say this is in Kapuskasing, in four days it is gone and in the interim let us assume we have 55 per cent or 56 per cent of the mployees signed up, but by the time that gets here the employer is aware of what has transpired and let us assume he has laid off twenty for lack of work -- which is a common excuse -- and that brings us down to 44 per cent, and on that date they want to know how many are in his employ. We come up for a hearing, and we had 55 per cent or 56 per cent at that date and the employer had only 44 per cent.

MR. MacDONALD: Mr. Metzler made the comment that the Board has to work on a general rule for everybody, but the fact of the matter is, because of this discrepancy in the time it gets there, they are not working on the general rule.

THE CHAIRMAN: It is general but not equitable,as far as I can see, for those living in remote areas. I think the thinking of these gentlemen is that if the time was to run from the time the application was put in the mail that inequality would disappear.

MR. STEPHANOVITCH: It would be effective as of that date -- the people employed as of the date of that postmark.

MR. METZLER: There are a couple of

things I want to say. What would you do if the application was defective? You have said the time is the time of mailing, but it is a defective application, possibly the document has not been signed as required under the Labour Relations Act by an officer of the trade union?

MR. MacDONALD: That does not meet the particular point we are at now.

THE CHAIRMAN: I think it could be cured, although it is defective in form but not in substance, or something like that.

MR. METZLER: Or it is possibly defective for other reasons. I just cite the lack of a signature in the one instance. Suppose the thing is not a proper application, are you not going to establish a particular date when the document reached the Board?

There is another aspect of this thing that affects the situation: immediately an application is received and the notices are prepared to be submitted to the employer,and the posting, the first thing the Board does is to fix a date for the hearing. I think, as Professor Finkelman has indicated, the hearing is usually two weeks following the receipt of the application. How in the world are you going to get any continuity of process if the time has run against you, the time you are talking about

is running against the Board, its operations as well as the parties?

THE CHAIRMAN: It may be necessary to change the whole schedule if this Committee says in its wisdom that that is what should be done, but the fact that the application may be defective in lacking a signature, it is still defective at the time it arrives at the Board.

MR. YAREMKO: Does it not all boil down to this, that you would like to have a freezing of the employee list as of the date that you send in. You send in a list of employees, and that is the list that should be frozen and would be effective provided all other aspects of the application are in order?

MR. BOYER: Yes.

MR. HOULT: It not only applies in isolated cases in Northern Ontario; it applies in Southern .Ontario.In the event that we get in 45 to 55 per cent of these men, we feel it won't do and that night we can settle the thing by racing in the car and getting it certified that afternoon, and that would apply to within a radius of one hundred miles of Toronto.

THE CHAIRMAN: Yes, I suppose that could occur. Now, we can get on to page 3. The next problem is where an employer is supposed to file a reply on Form 5. Anything arising out of that?

The last paragraph on page 3, a person who refrains from voting considered to be a vote against the union. Any comments on that, or any questions arising out of it?

MR. YAREMKO: You have told us about the problem where an employer may reduce the number of employees. Is there any similar problem where an employer may suddenly take on or increase the staff?

MR. BOYER: No. It has happened, I would say that, but we say that is a problem, taking on more employees is not as difficult for the simple reason there are two ways it works; probably one, you could continue to sign members up up until the date of the hearing as long as they are employed on or before that date. That is not too big a problem to cover that. Also, any employees who are hired after the date that the list is frozen, actually in one sense they do not count because they were not employees as of that date. In the Act it stipulates that, you see, so it is not too big a problem that way. It is pointed out that that is the general feeling of the trade union movement. I do not think we have to do anything about that.

THE CHAIRMAN: Page 4 -- we have already considered the first part. We have heard the second one before. No. 3 and No. 4,

anything arising out of that?

MR. SPOONER: In connection with No. 3, about the third or fourth -- the second last line -- the presentation is that the Act should read as follows. You mean that as an amendment?

MR. STEPHANOVITCH: Yes.

THE CHAIRMAN: Page 5?

MR. MacDONALD: The middle paragraph -- do you mean decertify the company rather than certify the company?

MR. BOYER: Under the present Act if the employer changes its name and so forth you have to go through the whole process, and also if an employer lets his work to a contractor, somebody else, you have to go through the whole process.

MR. MacDONALD: It is a new company you are referring to?

MR. STEPHANOVITCH: It is possibly the same company with a new name and you have to go out and certify it again.

MR. MYERS: No. 4 on page 5 --

> ". . . it may be certified with
> "a minority of members."

MR. STEPHANOVITCH: Not necessarily. If I remember correctly, under Section 75 of the Act if the union do the work before the Board and shows through the medium of the presenting of evidence and witnesses, and so on, that the

company did interfere, that the Board will certify as long as there is better than 50 per cent.

MR. MYERS: I have heard of instances where the union has used interference with a view to compelling an employee to sign. I cannot give you any specific cases on that but it seems to me if they were proved the union should automatically not be certified too.

MR. BOYER: I think the companies are doing a pretty good job before the Board on this matter.

MR. STEPHANOVITCH: If I follow you correctly you say one union is found to be interfering with an employee ---

MR. MYERS: Yes, I have heard of cases where some influence has been brought by unions in compelling an employee to sign up.

MR. STEPHANOVITCH: The only thing I can say about anything of that nature arising is where a collective agreement is in force and stipulates that may be an agreement of employment, but no man is compelled, it is simply a case of whether he wants to join or not. You can go on some organizational drives and get it straightened up, and in other cases it is a waste of time.

MR. MYERS: I have heard of cases where an organizer goes to a man and says, "We have three or four men to sign and you sign on this

line and sign by six o'clock tonight or if you don't we will get a closed shop and you are out." I have heard where that was said. That is not your practice?

MR. STEPHANOVITCH: Not that I know of.

MR. MYERS: You have never heard of anything like that?

MR. STEPHANOVITCH: We talk to the employees and tell them what benefits they will get.

MR. MYERS: That is perfectly all right.

MR. STEPHANOVITCH: I have not run across anything like that. Possibly it has happened, but one thing must be borne in mind, when it boils down to equality, we unions may be accused of certain things that we never do and never will have the power that lies with management because we do not control that individual's job, and when the word comes from management "When a union comes in here I will shut the door and won't employ you", we cannot control that.

MR. MacDONALD: Is not the union penalized by having a card thrown out, and, secondly, it creates in the minds of the Board a suspicion that they do this kind of thing and it carries on for other cases they bring to them, so the union does not escape scot-free.

MR. STEPHANOVITCH: One of the most common things we have found is that you can engage

in an organizing campaign and the people are receptive and you apply for certification and in the two-week interval until the hearing is held, I cannot give you an exact percentage, but you receive in the mail a letter from the Labour Relations Board to the effect that a petition has been filed by the employees that they do not desire to be represented by the United Brotherhood of Carpenters and Joiners. It is surprising the change in a man in one week's time. We know where it emanates from but going down to the Labour Board and trying to prove it is very difficult, because if you subpoena a witness who is an employee of the company or he comes voluntarily and his employer is sitting there, and you ask him certain questions, "Did you see such-and-such a thing," and so on, he is very reluctant to give you that evidence because his employer is right there, and he must go back the next day and go back to work in that same plant, and it is very difficult for us to do anything there and it is very unfair.

MR. MYERS: You mean to say a man would have signed up and then withdraw?

MR. STEPHANOVITCH: Two weeks later. I have one tomorrow morning where an individual was involved who gave us great support in the drive and when we applied for certification he is already on the other side of the fence.

MR. MYERS: He asked to have his name withdrawn?

MR. STEPHANOVITCH: No, in this instance it is what we refer to as a company union, and naturally they have not got the type of recognition they desire, and we organized the people and applied for certification and one of the individuals who was involved, who is an officer of the group who was working with us, suddenly had a change and is over on the other side.

MR. MacDONALD: Maybe the offer of another job?

MR. STEPHANOVITCH: You would be surprised how many of our presidents get jobs with management.

MR. YAREMKO: That could be on the basis of the company wanting the best men.

MR. STEPHANOVITCH: When the unions are accused of raiding, it also occurs on the other side of the fence. They raid us for our people, so it is not one-sided.

THE CHAIRMAN: It is now one o'clock and we will reconvene at two o'clock sharp.

---The Committee adjourned at one o'clock to reconvene at 2.00 p.m.

(Page 1257 follows)

L.R.
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The hearing resumed at 2.00 p.m.

THE CHAIRMAN: Gentlemen, it is now 2 o'clock. At adjournment I believe we had concluded that part of the brief up to the end of page 5. Are there any further questions arising out of page 5? Then we will go on to page 6 -- Negotiation and Conciliation. In this part of your brief, gentlemen, you refer to the conciliation procedure which is supposed to allow a "cooling-off" period to prevent what governments call hasty and unnecessary strikes and it has been referred to as a "deep freeze" period. Some people have also referred to it as a "heating up" period. What, actually, is your thinking on that?

MR. STEPHANOVITCH: Although the Labour Relations Act does provide for a given time in which full procedure of conciliation can be gone through, such is not the case generally speaking. We find ourselves confronted with matters going through full procedure to take six, seven, eight or nine months. When we start negotiations it is generally in the Spring of the year when the agreements expire, and as a result of these delays you find yourself in a position applying for conciliation procedures in the Winter time of the year, November and

December, by which time there is a greater degree of unemployment and you are placed in a position where you have to take economic action and it is in a bad time of the year. I think, possibly, there is reference to it in another part of the brief wherein it explains that much of this is caused by the fact that there is not sufficient personnel or people who can sit as chairmen on Boards of Conciliation available to the Department of Labour so that they can comply with the necessary time element as outlined in the Act. Now the deep freeze -- that comes in where we feel that what is intended to be done within the given time winds up being done in a period that is two or three times longer than anticipated.

MR. MacDONALD: And while you are in the deep freeze you get heated up.

MR. STEPHANOVITCH: We certainly do.

MR. REAUME: It gets hotter and hotter all the time.

THE CHAIRMAN: This cooling-off period does not permit better labour relations but, if anything, aggravates it.

MR. STEPHANOVITCH: We believe, when the legislation was made, during the time of negotiations both sides got bitter and there

were angry words and such that shouldn't be said with the result that this cooling-off period was brought into being. It was to let a bit of time go by so that when the two parties came together again there would be a better atmosphere. However, in the interim, while this is going on it does not become a cooling-off period but a deep freeze. We have found, and I, personally, can go back five or six years to a time when we had negotiations and if we so much as mentioned we were going to apply for conciliation services it was enough to make both parties sit down and come to an agreement. After dealing with conciliation procedures once or twice and getting more familiar with them you will find, after a while, there are certain manoeuvres and loop-holes which can be taken advantage of to extend the negotiations for eight or nine months and save yourself all that additional increase that may have to be given. That is how they are taking advantage of it. Because as mentioned earlier this morning it is very difficult to obtain retroactive pay in the construction industry. So, if you are wise and employ a good, sharp lawyer it does not take long to delay this into eight or nine months.

THE CHAIRMAN: You mean a good lawyer; all lawyers are sharp.

MR. BOYER: I think there is another aspect that should be looked into in this regard. One of the problems is the establishing of a new certification where you had no agreement before. You go and get certified and then under Section 10, I think it is, you go through all this lengthy procedure and, eventually, those employees wait and wait and wait until you get an agreement signed. You will find that where there is an agreement there is also a long delay to establish any new certification. You have to wait, sometimes for months, before an agreement is reached, and in the meantime these people get discouraged and disappointed and, shall we say, are not too happy about the situation.

THE CHAIRMAN: So, what you, in fact, say is that if an agreement cannot be reached within 90 days after certification then the union shall be free to take strike action.

MR. STEPHANOVITCH: I would even go beyond that and say either party can take action; lock-out or strike action. I do not think any union wants to go out on strike; I think that their desires are bargaining in good faith and they believe that can be achieved if a time

limit is made and if both parties are duty bound to sit down they would be more inclined to come to an agreement. If their desire, however, is to save themselves money they take advantage of the situation and extend it beyond what should be, possibly, a three-month period to an eight and nine-month period.

MR. MacDONALD: There was a suggestion of 60 days: Is that a proper figure from your point of view for your industry?

MR. STEPHANOVITCH: That is very difficult to answer as to whether it should be 60 or 90 but I do not think it should be any longer than 90 days.

MR. MYERS: How is stalling done?

MR. STEPHANOVITCH: The parties sit down and after preliminary discussion oneparty says, I cannot make definite commitments, I have to go back to my superiors and I propose we meet again in two weeks' time. They come back again and do a little more talking and say, we will have to take this back and discuss it and that carries on, and then we say, we will apply for conciliation so we apply for conciliation and in two or three weeks' time you might get on, depending on how busy the Department of Labour is at that time of the year. An officer is appointed. At the first

meeting he cannot make an agreement and it is postponed and the same thing happens a week later and then you go to the Board. You nominate your appointees to the Board and it might take a couple of weeks trying to get a Chairman, and then when you have done all that you have to bide your time and then they have to sit down and decide on what is a convenient time. If one member is in a law practice he might be in court for all of that month and the next fellow says the next month is not agreeable to him and before a date is set a great length of time goes by.

THE CHAIRMAN: Mr. Finkelman, what has been your experience in connection with this procedure regarding certification?

MR. YAREMKO: Mr. Chairman, we are going to get a time study, are we not?

MR. FINKELMAN: Not on certification, on conciliation.

MR. YAREMKO: On conciliation we are going to get a time study of the number of applications commenced and settled.

MR. FINKELMAN: That is right. As far as our end of the conciliation process is concerned, I would say it runs closer to seven days than the time suggested by Mr. Stephanovitch. There may be cases where longer than seven days

is taken either because the applicant has not filed an agreement or because there has been no bargaining or something of that sort. The routine case is processed in approximately seven days, that is from the date of filing. Suppose the union moves the time from the date they mailed the application, it may take several days more.

MR. YAREMKO: On this matter of conciliation, Mr. Stephanovitch, in the brief presented by the Construction Association on page 26 of their brief, at the top, they make the following statement:

> "If conciliation procedure could,
> "therefore, be made more flexible and the
> "administrative authorities be able to
> "combine all the relevant negotiations
> "in a particular area into a single dis-
> "pute to be dealt with by a single con-
> "ciliation officer or, where proper, by
> "a single Conciliation Board."

I think this problem exists, primarily, in the construction industry. Their suggestion is that rather than dealing with the Carpenters' Union, the Bricklayers' Union, Metals' Union all separately that some procedure should be set up whereby one conciliation procedure

would be done to apply to all the relevant unions within a particular field. Have you 2 any comment to make in that regard?

MR. STEPHANOVITCH: I believe, and I stand to be corrected if I am wrong, that that has already been done in some instances by the Department of Labour where some given area of two or three building trade unions are all having negotiations and cannot resolve them and, therefore, it has to go to conciliation. I believe one officer has dealt with more than one union in one given area.

MR. MYERS: Mr. Finkelman, what do you think of the right to strike if an agreement is not reached after 90 days?

MR. FINKELMAN: I am afraid I have no comment on that question.

MR. BOYER: I should point out one thing: In reference to conciliation, sometimes in the construction industry, even in bush operations it does happen that we certify a construction firm, we go into negotiations, and by the time you get through all the procedure of the conciliation and so forth the job is finished, the contractor is gone, and where are you. All the time is just wasted unless that company comes back into the area again and you are, to use the common

expression, sitting there holding the bag.

MR. MYERS: In short, you say, if you do not reach an agreement in 90 days you are not likely to reach one?

MR. BOYER: Not necessarily.

MR. STEPHANOVITCH: There is greater possibility for both parties reaching a decision if there is a time limit, and if a decision is not reached then the possibility of a strike or lock-out but when they know there is a time limit of eight or nine months they take advantage of it.

MR. YAREMKO: Do you think a lock-out is as strong an economic weapon as a strike?

MR. STEPHANOVITCH: I would say so; yes, it is just as advantageous.

MR. YAREMKO: Have you any instances with the construction industry of lock-outs?

MR. STEPHANOVITCH: Not that I recall. I believe some of the agreements provide this: If you institute strike proceedings in any one company the remainder of the employeers in the Builders' Exchange maintain the right to lock out their employees if you do not cease action against the one given employer, but I do not believe it has ever been utilized.

THE CHAIRMAN: Is there anything else on this topic, page number 7, Arbitration?

MR. WREN: Who are you suggesting here should pay the nominee?

MR. BOYER: Under the present Act there is no provision for the pay. Most agreements provide that the union pay their nominee and the company pay their nominee and the cost of the Chairman to be borne between the two parties. All we are asking is that it be included in the Act, if the Minister appoints a nominee, that the same condition would prevail of each party paying their own nominee and both parties pays the nominee appointed by the Minister.

MR. REAUME: Who would you say would pay the nominee appointed by the Minister?

MR. BOYER: The employer and the union, both parties. You see, at the present time, under the legislation, there is no provision if the Minister appoints a nominee and we have found cases where the Minister, and I can readily see his problem, has a difficult time making an appointment because the chairman wants to know who is going to pay him.

MR. REAUME: That is important.

MR. BOYER: I guess we all look for that.

MR. MYERS: Who pays that?

MR. STEPHANOVITCH: If you submit

to conciliation during the lifetime of an agreement we nominate a man and wepay him; management sends a man, appoints a man, and they pay him, and the two parties, equally, share the expenses of the Chairman, that is the practice.

MR. MacDONALD: Have you any views on the proposition which has been advanced that since it is under legislation established by the government, so to speak, that the chairman should be paid by the government?

MR. STEPHANOVITCH: I know that the Brotherhood of Carpenters and Joiners would certainly appreciate something of that nature because some of these arbitration boards are very costly and we would like the committee to bear in mind that many of our local unions in this province have a very small membership of, possibly 200 or 300 and in spite of what you are led to believe and read in the press that unions are large financial corporations some of these local unions only have $200, $300, $400 or $500 in their treasury, and it would only take one or two arbitration cases to wipe that out and it can be a very difficult problem for us to face.

MR. MYERS: Do different industries resolve their differences through arbitration

in about the same number or is there a variation?

MR. STEPHANOVITCH: There is a variation. In the construction field there has not been a tendency to submit too many differences to arbitration because the history of this union is that it has always been able to resolve its differences in a committee composed of union and management and it is only recently that more and more cases are coming up for arbitration.

MR. YAREMKO: If the Government were to pay all members of the Board, the three, instead of just the Chairman, do you think there would be a tendency to use the boards even more, perhaps even when it was unnecessary, the attitude being we are not paying for the board anyway, so we might as well use it. Might that not be a problem that might arise?

MR. STEPHANOVITCH: It might be; I suppose if the thing is free we might take greater hold of it.

MR. WREN: Have you found cases where the chairman's fees are prohibitive?

MR. STEPHANOVITCH: I might not use the word prohibitive, but certainly it has been high.

MR. MYERS: How much?

MR. WREN: Off hand, can you give us

any figures?

MR. STEPHANOVITCH: I cannot, off hand. Maybe Mr. Welsby can.

MR. WELSBY: I do not recall definite figures, but I would say it is around $100 a day.

MR. BOYER: I could put it in this light: In all depends on how prominent the man is.

MR. YAREMKO: You are not quarrelling with the amount he gets paid per day but rather the fact that sometimes if arbitration proceedings are lengthy it might add up to a considerable sum. You are not implying the chairman is not deserving of his pay but that it might work out to be a considerable sum and work a hardship on the unions involved.

MR. STEPHANOVITCH: That is absolutely true.

MR. YAREMKO: Have you any quarrel with the charges the chairmen charge for their services?

MR. STEPHANOVITCH: There are times, from our point of view, when we feel they are excessive but we have not brought any material with us today as to costs because we did not anticipate this arising or we might have done some research.

MR. MYERS: Have you had chairmen who are not judges?

MR. STEPHANOVITCH: Yes, we have.

MR. MYERS: But, for the most part, they are members of the judiciary?

MR. STEPHANOVITCH: Yes, generally.

MR. REAUME: What do you find as a comparison between a judge and an ordinary trained man or a properly trained man in matters of expediency in getting it over with. Do you find a judge is better than the other fellow or vice versa?

MR. STEPHANOVITCH: There are times when you get into matters at the Conciliation Board of having to do with the problem of trying to arrive at a classification that might exist within our industrial field. Let us assume you are talking about a lumber yard which has a mill and among its operators in that lumber yard there is a sticker, and a man without any experience in this field would be at a loss. I recall one particular instance when we were discussing that and the Chairman of the Board was a judge and he had no idea what we were discussing at all. He was completely at a loss, because he was not conversant with that particular industry.

MR. REAUME: Is there is a feeling in the mind of the union man that a judge might be biased in favour of the employer. Is there that general feeling?

MR. STEPHANOVITCH: If you read the last part of our brief; very definitely.

MR. MacDONALD: With regard to the second paragraph in regard to arbitration is there no recourse following implementation of the Arbitration Board's decision other than by action in the courts by the parties? 3

MR. STEPHANOVITCH: I think the only one that has been passed and I stand to be corrected is the one that says you have to apply for leave to prosecute and the civil courts take it from there. That is the only way you can enforce the Board's decision, because the law stipulates you cannot strike during the lifetime of an agreement. You must resolve all your differences through the medium of arbitration. Let us say you go to arbitration and the employer refuses to implement the decision of the Board. In one particular case we resorted to applying for leave to prosecute, but this was only done to force him to implement that award and we were successful.

MR. MacDONALD: Surely, if the law says

you are not entitled to strike within the life of the agreement and there is no other way of enforcing the decision, then it is pretty feeble.

MR. STEPHANOVITCH: That is why more and more are being challenged and taken into the courts.

MR. WREN: Do you mean under compulsory aribtration?

MR. STEPHANOVITCH: It is compulsory in that any finding of the Board shall be binding on both parties.

MR. WREN: But you cannot enforce it?

MR. STEPHANOVITCH: That is right. Let us assume the Arbitration Award is in your favour and you want it implemented and there is refusal to do it, the argument being that the Board had no right to make that decision.

MR. WREN: You feel the decision of that Board should be implemented as enforceable.

MR. STEPHANOVITCH: Yes.

MR. MYERS: Why could you not institute civil action against the employer who did not abide by the decision of the court for the relief for which the decision was given?

MR. WELSBY: What would happen --

MR. MYERS: It would cost him an

additional several thousand dollars.

MR. STEPHANOVITCH: We desire to maintain good relations with our employers.

MR. MYERS: I suppose one reason it cannot be implemented is because you are not an entity yourself. If the employer were incorporated and you were incorporated why could you not say to the employer, if you do not abide by the Board's decision, you will be sued. Why would you not allow yourself to be incorporated so that you could sue and be sued? What is wrong with that?

MR. STEPHANOVITCH: We do not believe in being a legal entity in order to sue and be sued in turn.

MR. MYERS: Why not?

MR. STEPHANOVITCH: The courts are not the answer to our problem. Our answer is bargaining between management and labour around the bargaining table.

MR. MYERS: If the unions are going to have the decision implemented, what other recourse can you take? Why can't there be a suit?

MR. BOYER: Picketing.

MR. STEPHANOVITCH: This is one of the rights we gave up when the legislation was brought in that would give us certification. One of the things we had to give up was that

during the lifetime of an agreement there would be no strike so we say there should be some way to make them adhere to it and to make this legislation possible to live with.

MR. MYERS: But if the employer refuses it seems to me the logical thing is to sue and the damage is to the employer. Let the union sue that employer if he will not live up to the arbitration award.

MR. STEPHANOVITCH: I do not think that is the answer. We are not organized as a profit-making association as the employers are.

MR. MYERS: You are there to protect the rights of your members and how better protect their rights on default than to sue.

MR. STEPHANOVITCH: We could do that if arbitration awards were a little more enforceable.

MR. MacDONALD: In any other jurisdiction are the decisions of arbitration boards legally enforceable without action being taken in the courts.

MR. HUTVICH: I would say so.

MR. MYERS: If they are corporate entities then they are enforceable in the courts.

MR. MacDONALD: If during the course of a contract the decision to settle differences

is to take it to arbitration and assuming it is compulsory and after decision management will not implement it then surely this means nothing as a proposition. There should be something without taking it further to court.

MR. MYERS: Someone is indemnified.

THE CHAIRMAN: Mr. Finkelman, can you give us some light on this matter?

MR. FINKELMAN: Since 1944 when the Federal Labour Act was introduced the principle has been whenever grievances arose during the lifetime of an agreement, I am not going into the question of what sort of grievances we are concerned with, grievances that arise during the lifetime of an agreement are to be referred to arbitration. The decision of the arbitrator is final and binding but a question of enforcement arose and the question of enforcement will arise in any case where there is a law which one of the parties disobeys and the procedure which has been set out for the enforcement of awards by arbitrators is by prosecution in the courts with the leave of the Board as in all other cases of prosecution. The penalty that is enforced is covered by Section 61:

"(1) Every person, trade union, "council of trade unions or employers' "organization that fails to comply with "or contravenes any provision of this "Act or of any decision, order, "direction, declaration or ruling made "under this Act is guilty of an offence "and on summary conviction is liable,

"(a) if an individual, to a penalty of not more than $100; or

"(b) if a corporation, trade union, council of trade unions or employers' organization, to a penalty of not more than $1,000.

"(2) Each day that any person, trade "union, council of trade unions or employers' "organization fails to comply with any pro-"vision of this Act or of any decisions, "order, direction, declaration or ruling "made under this Act shall be deemed to "constitute a separate offence."

There is the machinery, there is the remedy which might be adequate if it were applied. If you do not have prosecution you would have to have some other method of enforcing the decision through the courts which might wind up with the same thing.

MR. YAREMKO: Mr. Stephanovitch, you feel that labour gave up its economic weapon to comply with the legislation on the book and you feel that if the employer does not carry out the intent and purpose of the legislation which was to make him abide by the arbitration decision, then that economic weapon should be immediately placed back in your hands?

MR. STEPHANOVITCH: Many are talking in those terms today.

MR. YAREMKO: Because they gave it up to begin with on the understanding that the arbitration award would be abided by and if they do not abide within 15 days the original weapon goes back into your hands.

MR. STEPHANOVITCH: Our feeling is that the Act should be amended so that if 15 days have passed after an arbitration award has been handed down and there is no indication on the part of the company to implement this decision that the union may resort to strike action. As it is now, when the collective agreement comes into force and during the lifetime of the agreement that no strikes or lockouts by either party will be taken.

MR. YAREMKO: I have been saying all along that every aribtration award is fundamentally in favour of picketing.

MR. STEPHANOVITCH: No.

MR. YAREMKO: That may be wrong. Have there been any instances where an aribtration award has not been abided by the union or by the other party?

MR. STEPHANOVITCH: Off hand, I do not know. Not in our particular union that I can think of.

MR. YAREMKO: Then you think, as far as your union is concerned, that the refusal to abide by the arbitration award has come from the side of the employer?

MR. STEPHANOVITCH: Definitely.

MR. YAREMKO: Not from the side of the union.

MR. BOYER: This may, in part, be an answer to your question: Most arbitrations, speaking in broad terms, involve matters of money and seniority or something of that nature. If you do not win the award, naturally, you do not get it. If you do win the award on a monetary point, then you want the employee to get the money, so it is not a question of the union implementing the award and it is the same with seniority.

MR. YAREMKO: I want to get clear in my mind what you say: The nature of an

arbitration award is such that only one party can, actually, be in breach of it. Is that so?

MR. BOYER: In quite a few instances, that is so. The employer has to pay the money or take the man back or have to re-instate him or give him his seniority and so forth.

MR. YAREMKO: So there would be very few instances where the union would even be in a position to breach, not to abide by the arbitration award.

THE CHAIRMAN: In any event, you do not know of any cases where it has happened?

MR. BOYER: I do not know of any cases.

MR. MacDONALD: You have this anomalous situation: Where management does not abide by the decision of the Arbitration Board and if after 15 days the union takes strike action it will be declared an illegal strike and immediate action can be taken by the Labour Relations Board.

MR. BOYER: That is right.

4 THE CHAIRMAN: Do you want us to recommend that if an arbitration award has not been given effect to by the employer and 15 days has elapsed then you be given the right to strike and conversely lock-out?

MR. BOYER: That is right.

THE CHAIRMAN: I think we understand what you are trying to convey. Now on page 7, Other Matters; page 7, 8, 9.

MR. YAREMKO: Page 8, about the seventh line down the page the statement is made:

"These police through the inspector,
"were under the directorship of the
"company whom the strike was against."

Would you enlarge on that statement?

MR. WELSBY: Then the police were directed to an area where we had picket lines up, the information to the police, in one instance, was put over the company airways, the inter-com, over the radio directly to the police in another area to bring them to that spot where we were picketting.

THE CHAIRMAN: Were you there when that was done?

MR. WELSBY: Yes, sir.

MR. MacDONALD: And did they come on that summons?

MR. MYERS: What is wrong with that?

MR. WELSBY: The police should act on their own.

MR. MYERS: I would think anything could be used to assemble them to a point where they were needed.

MR. REAUME: Is the area you are

speaking of a farming area?

MR. WELSBY: Fort Frances, Kenora.

MR. REAUME: Do they have a reeve and a council; are they organized in there?

MR. WELSBY: Oh yes, Kenora and Fort Frances.

MR. REAUME: Then would the request not come from the mayor or reeve or the people in charge of the area?

MR. WELSBY: No sir, not particularly, it came from the company officials.

MR. REAUME: The reason I mention that, from time to time that situation has occurred in Windsor and that invitation has always been issued as a result of the voting of the majority of the commission to ask the province to come in. Otherwise they did not come.

MR. WELSBY: I am afraid it was not so in this case.

MR. PESHEAU: The pulp and paper company in that area has economic control over that area.

MR. WREN: What is the name of the company?

MR. PESHEAU: Ontario Minnesota Pulp and Paper.

MR. WREN: Do they have a mayor and a council?

MR. PESHEAU: They have economic control and it is an easy matter for the company to go to the mayor and get what they want.

MR. WREN: I represent Kenora and there are 14 municipal organizations. Some of them are improvement organizations. Nine of them are ordinary municipal structures. I can think of six of those that have no connection whatsoever, economic or otherwise, with the Ontario Minnesota Pulp and Paper; no connection at all. I can think of Red Lake, to take the big names, where there is control by the railroad and I can think of Dryden that is strictly a construction and pulp and paper.

MR. PESHEAU: It happened in that area.

MR. WREN: You are suggesting for the record these areas are organized into municipalities and I want to correct that. First of all, because the district is largely unorganized and a good half which is organized is not under control of any one company.

MR. WELSBY: These areas are organized sufficiently for it to have gone through the proper organized channels.

MR. WREN: You are suggesting the company took over the direction of the police?

MR. JACKSON: Why were the police called in in the first place? Was there any violence?

MR. WELSBY: No violence.

MR. PESHEAU: Not before the police arrived?

MR. JACKSON: I think you said there was violence.

MR. PESHEAU: After the force was brought in.

MR. WELSBY: We feel the police provoked the violence by their rough usage of these men.

MR. MYERS: What did the police do?

MR. WELSBY: They pushed the men around where they had set up their picket lines and pushed them back off the area.

MR. MYERS: Were the picketers trying to interfere with the traffic along some road?

MR. WELSBY: Of course they were; that is what they were picketing for.

MR. MYERS: That is wrong.

MR. WELSBY: That is not for you or me to say. It was a company road, not a public highway.

MR. WREN: This is rather an important question, and I believe we were discussing it near the end of the session in the House and

the Attorney General made the statement that he was going to investigate all aspects of that situation.

MR. MacDONALD: The Attorney General reported in the House and said there was nothing in it, and at the time it was said it was a white wash.

THE CHAIRMAN: Having read the brief, and noting the reference made to the police and the Attorney General and after consulting with Mr. Wren I deemed it advisable to inform the Attorney General of this situation and asked him to be here this afternoon so that he could hear what was being said and so that he could make a statement.

HON. MR. ROBERTS: Mr. Chairman and gentlement of the Committee, in speaking to this point I would like to say I am most anxious to see your deliberations be carried on in a way that will bring about the best results possible having in mind the very difficult and very particular subject you are grappling with in this manner and I wish you all the success possible in coming to the best of conclusions in the interests of the people at large. There are two points in this brief to which I would like to make special reference. I would like to be permitted to deal with the

one on page nine which has to do with the suggestion that Crown Attorneys or Assistant Crown Attorneys are representing companies in labour relations. If I might mention that first. I would just like to make this statement: I know of no Crown Attorney or Assistant Crown Attorneys representing companies or other persons in any labour relations matters. I would say there is no full-time Crown Attorney or Assistant Crown Attorney who does that, nor is he permitted to do it. There are some part-time Crown Attorneys and part-time Assistant Crown Attorneys in the province of Ontario and I am of the opinion these gentlemen should not participate. I do not know of any of them doing so, but I will be pleased to issue instructions in case any of them may have acted or think it may be in order for them to act after assuming their part-time duties as Crown Attorneys and Assistant Crown Attorneys. There was one case four years ago, before I was in office, but I am informed of this by the then Deputy Attorney General. Where the question was raised about the assistant part-time Acting Crown Attorney, I am informed that inquiry was made at the time by the Deputy Attorney General, but it was

not established that the party had so acted. In any event, you can rest assured that the practice of this department will be not to have any part-time Crown Attorneys or Assistant Crown Attorneys acting in the capacity suggested. Of course, as far as full-time Crown Attorneys and Assistant Crown Attorneys are concerned, they have no authority so to act.

Now, with respect to the other matter raised, I must say I am afraid those preparing this brief have not been cognizant of the full facts because, it seems to me, the statements in some cases are grossly exaggerated and even the facts appear to be distorted in some cases.

I made several statements during the sitting of the Legislature this Spring concerning this matter, particularly in relation to industrial unrest in the districts of Rainy River and Kenora and Staff Inspector Leonard Neil of the Ontario Provincial Police and Mr. W. McGuire, of the Conciliation Service of the Department of Labour went to Kenora on March 11, 1957, and together made a thorough investigation into the situation about which complaints had been raised in the legislature by the Honourable Member for York South. A statement was made by me following receipt of this report which is on record in the Hansard record

of the proceedings in the legislature and a copy of which I have here. I will be glad to have copies available, if you wish, for the committee, but the gist of that was that the committee set up by arrangement with the Minister of Labour and myself reported back, and I say here in my statement to the House:

"I have received a complete report "from the investigating officers, sup- "ported by evidence taken from witnesses, "and I am abound to say to this House "that having in mind the various eventu- "alities which a careful and sincere "Inspector of the Ontario Provincial "Police in the area would have to keep "in mind, his actions by way of requisitions "for additional forces made on the several "occasions shown in the Report, could "not be criticized by anyone who is "genuinely interested in the maintenance "of law and order without favour.

"In making as short and as concise "a statement as possible, I would not "wish to conclude without stating "specifically that the investigation "shows that the allegations made that "Ontario Provincial Police were housed "on company property and fed there was

"without foundation. There was only
"one occasion when any Provincial Police
"were fed at a Company Camp and that was
"when ten Provincial Police Officers,
"on the invitation of the Camp Foreman,
"had supper at Camp 309, which is a
"bush camp a considerable distance from
"where the Officers were billetted."

The area involved in this particular trouble extended something like 200 miles from south to north along those roads in the District of Kenora and they were roads that were under the supervision of the Ontario Provincial Police, and that is why they were directly in the picture as in the cases of the municipalities as you mention. I would just say this: Any group of gentlemen can call the report good or bad or white wash or what they like. I made my statement on my summary of it, and I want to make this more general statement that I believe everybody here, irrespective of their affiliations, will agree with in principle. The use of police in a democratic country is, of course, for the purpose of maintenance of law and order. There has never been any use of Ontario Provincial Police, to my knowledge at any time, either since I have become Attorney General or, I am certain, during the regime of

any of my predecessors. We, who from time to time are charged with the administration of justice in the office I hold are elected representatives of the people, are answerable to the people for our actions periodically and I can assure you, gentlemen, that at no time will Ontario Provincial Police be used for purposes other than what are clearly indicated as their duties, namely, the maintenance of law and order. To the extent that it is necessary to maintain law and order in the province of Ontario, they will always be used with discretion but with firmness and without fear or favour with respect to any group of people in the province.

MR. MYERS: I was always under the impression that if I chose I could pass a picket line and they had no authority over me, whatsoever. Am I right in that assumption or has a picket line some peculiar authority to interfere with peaceful passage?

HON. MR. ROBERTS: You are faced with the Criminal Code on indemnification. The facts of other cases have to be taken into account. The term picketing is the term we use, but the Code uses the word beset.

MR. WREN: Mr. Attorney General, in your remarks you suggest that you instructed your committee to bring in a report which they

did after they they questioned certain witnesses. Were any of those witnesses questioned employees of the company involved in the strike?

THE CHAIRMAN: Inspector Neil is here.

HCN. MR. ROBERTS: There were a wide number of witnesses questioned.

INSPECTOR NEIL: Thecompany advised us the strike was not against them but against the truckers who had contracts with the company who hauled the pulpwood. We questioned the truckers and the truckers' employees and members of the union made a report based on their statements.

MR. WREN: Inspector Neil, you did question members of the unions involved in the matter?

INSPECTOR NEIL: Yes, we did.

MR. WREN: And gave them full opportunity to appear before you?

INSPECTOR NEIL: Yes, we did.

MR. WREN: And did any of those so-called truckers or union members complain of abuse by the police to you?

INSPECTOR NEIL: Not of violence; they complained of not being able to park their cars where they wished to and in not being able to walk and stand where they wished to and the matters which they brought up are debatable in

respect to the rights of police to enforce law.

MR. WREN: In the course of your investigation did you find it necessary to censure, yourself or instruct any of your subordinates to censure any of the police for their personal conduct?

INSPECTOR NEIL: I was not present during the strike.

MR. WREN: In the course of your investigation did you hear of any one of them who had done something they should not have done?

INSPECTOR NEIL: On one occasion -- there was an occasion where the officer concerned may have used a little more discretion but there was no violence involved.

MR. WREN: Did you feel the need of any discipline so far as that officer was concerned?

INSPECTOR NEIL: No, sir.

MR. MacDONALD: The Attorney General has made the statement and I am sure everybody will welcome it: Henceforth Crown Attorneys, Assistant Crown Attorneys, part-time Crown Attorneys and Assistant part-time Crown Attorneys who have previously been engaged in industrial relation work for a company will not be able to do that work. That is fine as to the

future. The suggestion is, however, that that has not happened in the past.

THE CHAIRMAN: The Attorney General did not say that it has not happened in the past.

MR. MacDONALD: Can we have some instances of where it has happened in the past?

THE CHAIRMAN: Let us get it on the record clearly: The Attorney General did not suggest it has not happened, as has been suggested.

MR. MacDONALD: May we have a few of the instances when it did happen?

MR. CAMPBELL: I am quite aware, and this goes back several years, that the Assistant Attorney in Cochrane, Mr. Dupont, has been acting, and is still acting, that is up until last week, and I think next week he will be appearing before the Labour Relations Board for a company. He is definitely acting in that capacity and also he is Assistant Crown Attorney. He has prosecuted employers on charges we have laid against employers, and he has also prosecuted on charges against union representatives on charges employers have laid.

THE CHAIRMAN: He is an assistant; not full time?

MR. CAMPBELL: He is an assistant.

MR. PESHEAU: There is the case of Mr. McLelland in Fort Frances. He is certainly solicitor for a company and he is Crown Attorney. Just lately he had a case in Atikokan on a warrant sworn out by Mr. McLelland and he brought up a special prosecutor from Port Arthur rather than prosecute himself because he was involved right up to his neck. We do not believe this is right. These prosecutors are acting for everybody and they are on the company payroll.

THE CHAIRMAN: I do not think the Committee thinks it is right either, and we have the Attorney General's assurance that if it has happened, it will be given immediate attention.

MR. YAREMKO: Has a complaint ever been made to the Attorney General's department prior to today?

MR. STEPHANOVITCH: I am given notice that it has been.

MR. BOYER: Yes, it has been.

HON. MR. ROBERTS: About four years ago, but not since I have been in office.

THE CHAIRMAN: You have not received any complaint since you have been the Attorney General?

HON. MR. ROBERTS: We do not want anyone even acting as part-time Crown Attorney or part-time Assistant Crown Attorney participating in that way.

MR. MacDONALD: The point, it seems to me, under discussion in this brief is that there were two strikes in Northern Ontario. In neither instance was there any violence before the police came on the scene. In the Beardmore one the police never came, and there was no violence and the situation resolved itself in a peaceful fashion. In Kenora the police were brought in at the instigation of the company and in the end succeeded in destroying the union. They could not do it with a strong union as in the Beardmore area, but where the union was small and weak they succeeded in doing so.

MR. REAUME: If they were there for the purpose of law and order and not for the purpose of breaking up the strike, how can you say they should not be there? But if the purpose in sending for them was to break up the strike then I say it was wrong.

MR. WELSBY: I would like to say in the Fort Frances area the issues involved about 350 people at the very most and in the Beardmore area it was as high as 750. In

Beardmore there were no extra police; I believe there was one corporal and constable, but there were considerably more than that in the area that involved only 300 people.

THE CHAIRMAN: In Beardmore, I understand, you had an organization that was not completely organized?

MR. WELSBY: It was a small unit.

THE CHAIRMAN: And in the other instance an organized union. The truckers are not unionized?

MR. WELSBY: They were organized as a group; as an association.

MR. WREN: Did you union avail themselves of appearing before Inspector Neil?

MR. WELSBY: I was there personally.

MR. WREN: Did you lay any complaint about the conduct of the police?

MR. WELSBY: As far as the constables were concerned, I had given that to the Attorney General's office prior to that.

MR. WREN: Did you say to the staff inspector or to any of his investigating committee that the police were used in there improperly?

MR. WELSBY: Not any more than what I had done in an official capacity of union authority against one of the policemen.

I did not go any further with the inspector on that but I did give him what I thought was accurate information in regard to the activities of the housing of the police and the feeding of same.

MR. MYERS: Mr. Welsby, will you tell me what you think a picket line can lawfully do?

MR. WELSBY: You asked me that once before. It depends on the circumstances.

MR. MYERS: In one of these cases the picket line may have been so strong they could disregard the law with impunity and it may be that in the other case they did not get quite that strong and that may be the reason why there was disorder in one strike and not in the other.

MR. MacDONALD: They were even stronger in the other.

MR. WELSBY: Even stronger in the other by twice as many.

MR. MYERS: I would like to know what you think the picket line can do?

MR. STEPHANOVITCH: There are no set rules as to what a picket line can or cannot do. The picket line is historical tradition of trade union movements, and the union man himself cannot say just what a picket

line does. It depends on all the circumstances surrounding the strike. If I have been out on strike for six months, and someone crosses that picket line, then you generally run into trouble,and from our point of view, we have the right to object. We may have worked for that employer for 20 years, and given the best years of our life and then there is a strike and somebody comes along and gets my job. You know that once you are 45 nobody wants to hire you, and that job is my livelihood and someone is taking away my job, so, naturally, there is going to be trouble. It all depends on the circumstances surrounding it.

MR. WREN: We are concerned here, as far as labour relations goes, if there was an abuse of power or abuse by the police. If so, we want to know about it, because that is not good. Will you give us some evidence where the police were abusing their power?

MR. STEPHANOVITCH: I am in no position to give you evidence as I was not directly involved in that matter. I know of it. I know Mr. Welsby has stated he said certain things were told to Mr. Neil. Other than that, I am not too well versed. I will say this: We are not going to act contrary to law and order. We are citizens of this

nation and proud of being so. We are not going to act in violation of law and order. We desire to adhere to the law. All we are saying is that while it is proper for the police to come in, it seems that after the police arrive on the scene, they are given to exercising their authority, possibly, more than they should, and that something is started that should not be started.

MR. WREN: Are you aware of whether it was on a request from the company; I am not upholding the company. I know of at least a dozen instances in those cases where the individual settlers, people whose only cash crop in the country where I come from is pulpwood and they appealed to the police because their bread and butter as in the bush and they were obstructed from hauling wood and so on. Do you feel that an individual stump rancher of pulpwood would not have the right to appeal to the police inspector to establish his rights?

MR. STEPHANOVITCH: I would think that is a democratic principle.

MR. WELSBY: Mr. Chairman, as a democratic system in this country is it not right that the majority should have a little heavier say than the minority?

THE CHAIRMAN: The minority -- I would not say that, necessarily, if you are preventing a man from getting his crop.

MR. STEPHANOVITCH: What Mr. Welsby means: Does not the majority rule?

MR. WELSBY: That is what I meant.

MR. WREN: Is there not some question of simple jurisdictional dispute? Did some of these truckers not have the right to haul?

MR. WELSBY: To my knowledge not.

MR. WREN: You heard the statements made by the Attorney General and the Inspector that there were contracts in effect between the company and some of the truckers. You say that is not so.

MR. WELSBY: Not to my knowledge.

MR. PESHEAU: Individual trucks to haul wood?

MR. YAREMKO: Do you believe the police should only be called after violence has taken place?

MR. WELSBY: Are you asking that of me sir?

MR. YAREMKO: Either one.

MR. STEPHANOVITCH: After violence has taken place?

MR. YAREMKO: Do you believe the only time the police should be called is after

violence has taken place?

THE CHAIRMAN: Mr. Welsby can answer that.

MR. WELSBY: I do not think the police should be called in after; however, there were a sufficient number of police there in the area. In our opinion they are only there to determine whether any violence had occurred or to determine whether conditions necessitated some additional force.

THE CHAIRMAN: So the gist of your complaint is that the Provincial Police were not properly administered; not the manner in which they were allocated?

MR. WELSBY: That is right.

THE CHAIRMAN: But you have no complaint as to where they get them?

MR. WELSBY: Except in some cases.

THE CHAIRMAN: If a provincial officer says he should have so many men in that area, even if he feels that, he should not do it.

MR. WELSBY: Will you please re-word that?

THE CHAIRMAN: Your chief complaint seems to be where the provincial officer administered or allocated his men. What would you think of the general of an army if he were

to allocate so many men to an area where you think they are not needed. Would you disagree with his judgment?

MR. WELSBY: Lawyers are smart.

MR. WREN: Mr. Welsby said the police on the ground in that area should have been competent to judge whether any extra help was needed or not. Do not think that Police Inspector Corsan was not concerned with that; he was. I asked Inspector Corsan and he assurred me he had requested help because in his opinion the area was so large, geographically, that he felt that if trouble development that he should have some help. Do you think that Inspector Corsan acted unwisely?

MR. WELSBY: If I might completely believe Inspector Corsan used his own judgment entirely.

MR. WREN: I can assure you he did.

MR. WELSBY: How can you assure me he did?

THE CHAIRMAN: We are assuming that 99 per cent of mankind is honest.

MR. WREN: To finally clear this up: May I ask the Attorney General one more question. Will you tell me whether Inspector Corsan had in any manner made any request to his superiors for additional help because in

his opinion it was needed?

HON. MR. ROBERTS: The only way he could get outside men was by making a request to headquarters for additional men and provided he made it on two different occasions.

MR. WREN: And before he made that request no men were sent?

HON. MR. ROBERTS: That is right. Except the men that were there, each district has its own quota.

MR. MacDONALD: There is a real problem here and I suggest the Attorney General's department should examine with great care whether they are going to send more people in or not. In this very instance, there were twice as many strikers, a stronger picket line, and a bigger organization and things were resolved peacefully. Now, if you are going to look for trouble there would have been the place to send the police.

HON. MR. ROBERTS: I think the situation in Beardmore was that there was a complete strike; not half a strike. Everybody walked off and there was no trouble. Am I right? That happens sometimes.

MR. MacDONALD: I cann't give you the details.

HON. MR. ROBERTS: I would like to assure you as far as the police administration is concerned, where there is no need for them, they are only too glad not to be in sight.

MR. MacDONALD: The point is this: In an instance where the police have been sent in, where unions have been effected by the police going in and by escorting strike breakers through the picket line, the final result of which was they smashed the strike.

HON. MR. ROBERTS: Then you come down to a question of rights on the picket line. If there was no need of questions of that sort then the police are not involved and everything is peaceful. You had a good illustration of that in Oshawa where a great plant was idle for months and law and order was perfect. You have to maintain law and order.

MR. REAUME: To be fair about this thing, I have had some experience with outside help and not once have I ever asked for it but in Windsor they were there quite often. I thought, oftener than they ought to have been. In any instance where a commission or authorized body asked for outside help, I do not think you have any choice but to seek it. In the question of the Ford strike in 1945 and 1946, it was not a matter of a strike by a union that was weak

because if there ever was a union that was strong it was the Ford union in 1945, 1946, but at the request of the majority of the commission they were there. So, if the inspector at Kenora or whoever is in charge of that area felt he had to have outside help I do not know what greater authority you could have than that. I want to repeat, if the police entered that area with the intent and purpose of breaking up the picket line and the strike they were wrong, but if they were there only for thepurpose of keeping law and order, I do not see what the argument is all about.

(Page 1310 follows)

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THE CHAIRMAN: Well, as I said in the Legislature, anybody that knows Commissioner McNeil and who thinks he would be the party to allow the police to go in and break up the strike, he does not know Commissioner McNeil.

MR. WREN: Mr. Chairman, may I say this so that this may be clear for the record: Kenora and Fort Frances are among the few areas in the North which have no county organization; once you get away from the organized municipalities, the only police force you have is the Ontario Provincial Police Force, and in some minor federal jurisdictions the R.C.M.P. But the policing of the whole of the unorganized areas makes up, geographically, more than 95 per cent.

Law and order there is the responsibility of the inspector, and I don't know where else -- and if there is any other source, I would like to know -- I don't know where else you could appeal to if you need police help than to the inspector. And if he feels in his wisdom he has to have help, rightly or wrongly, he has to make that decision. If his decision is wrong, then I suppose the Commissioner would deal with him later, but at the moment if he has a decision to make, he is the only man who can make it.

MR. MacDONALD: Can the inspector in question who called the police tell us whether he was approached or requested by the company to have more police in there before he passed that request on to the Attorney General's Department.

THE CHAIRMAN: He is not here.

MR. MacDONALD: Can the Attorney General who investigated this thoroughly tell us whether the inspector was approached by the company with the request that more police be sent in before they were sent in?

HON. MR. ROBERTS: I can't answer that without the details in front of me. I can say this, if that is his appraisal of the situation in relation to everything as he saw it, he would ask for assistance.

MR. MacDONALD: That is not an answer to my question.

HON. MR. ROBERTS: I don't know how he appraised it. He got his report from the patrolmen and so forth, but I can say this: I am certain no direct appeal came from the company to the inspector on which he took any action.

MR. MacDONALD: You are quite certain of that?

HON. MR. ROBERTS: I am quite certain he did not base any appeal of the company on that alone.

MR. MacDONALD: Well, a moment ago you said you had no evidence on that.

THE CHAIRMAN: The Attorney General has been kind enough to come here, Mr. MacDonald, and I would ask that he be treated courteously.

MR. MacDONALD: It is the old story.

THE CHAIRMAN: Whether it is old or new, you are still scraping the bottom of the barrel.

MR. MacDONALD: The report itself is in detail, and on the basis of that report the conclusions were reached, and they were fair, and I don't know why there is any dodging at all about it.

HON. MR. ROBERTS: Well, I want to tell you, Mr. MacDonald, as long as I am Attorney General, there won't be any spokesman for companies that will run me, nor will there be any spokesmen for any other group.

MR. MacDONALD: The assertion from the union that apparently made the representation in the first instance was that the request came from the company. Now, it seems to me that this would be a very relevant point, in the

event that were made, as to whether a request did come from the company.

THE CHAIRMAN: There was no such assertion from the union.

MR. Mac DONALD: Last Spring they made such an assertion.

THE CHAIRMAN: We are not dealing with last Spring. They don't suggest that for a minute. They say that the police were in there under the directorship of the employer and/or management. That is what they say -- that the police were not running this at all; it was the management that was doing it.

MR. MYERS: Mr. MacDonald, why not tell the man who is being held up that he must not call the police.

THE CHAIRMAN: This matter is a little bit above politics. Gentlemen, we are at the bottom of page 9, now.

MR. BONSARD: Mr. Chairman, before you leave page 9, you had asked if we had drawn the attention of the Crown Attorney in reference to the use of the Crown Attorney and Assistant Crown Attorneys with respect to matters of labour relations to the proper authorities. Well, we would like to say this: For the past number of years in our annual brief to the Minister of Labour, that has been one of the

points in the brief, sir, our objection to the use of Crown Attorneys and Assistant Crown Attorneys.

THE CHAIRMAN: You would be very pleased to know that you are not going to have to submit that brief any more.

MR. BONSARD: Thank you very much.

THE CHAIRMAN: We are now at the bottom of page 9, gentlemen.

MR. PESHEAU: Mr. Chairman, before you leave page 9, can I ask whether --

THE CHAIRMAN: We have another organization that has been waiting all day from Hamilton. We have dealt with it very scrupulously, I think. We don't want to have these other men come back tomorrow, and I don't think you would want that to happen.

MR. PESHEAU: No.

THE CHAIRMAN: All right. The bottom of page 9, gentlemen. Anything there? Or on page 10? Page 11.

MR. ROWNTREE: May I ask two or three questions, Mr. Chairman. They may have been asked before, and if they have, will you stop me?

THE CHAIRMAN: I will, if they have been asked.

MR. ROWNTREE: May I ask your group

just some general questions. I want to know, first of all, if you object to the train of thought which forwarded the idea that unions should be incorporated? Have you any thoughts about that at all that you care to give us?

MR. STEPHANOVITCH: We are opposed to that. I don't know how strong to express that to you. We don't put ourselves on an equal basis with incorporated companies who are out to make profits, as is their right, and as their business calls for. We are not in competition with them. We don't feel that we should be sued and re-sue in turn, because if that were made the case, if we were made legal entities, I am of the opinion it would not be very long that a lot of employer groups who are seeking to break some of our locals could accomplish that very easily, because it would only take two or three lawsuits to break some of our locals and they wouldn't be very long in existence.

MR. ROWNTREE: May I ask another question: It seems to me the system of organizing unions in a plant comes from the employer. You, I assume, are trying to obtain better working conditions and better wages for the employees?

MR. STEPHANOVITCH: We are organized for that purpose.

MR. ROWNTREE: And resistance comes from the employer. He does not want you to do that. That seems to be a problem. Now, would you express any opinion as to why you think employers don't want that to happen?

MR. STEPHANOVITCH: Yes. It all just boils down to money. When we come into the company, it is going to cost them a few more cents in terms of increased wages.

MR. ROWNTREE: You think it is all a question of money?

MR. STEPHANOVITCH: There is no denying it. Every time we come into the picture, I don't know how many different times we have lost units, and as soon as we were on the scene an immediate increase was granted to the employees. I know one particular instance where the wages were increased 65 cents an hour in a period of two weeks. From the time we applied for certification to the time the meeting was held, those employees were raised 65 cents an hour. That is the general reason behind it.

MR. ROWNTREE: Do you think there is any reason in the thought that they are afraid the union might take over the duties of management?

2 MR. STEPHANOVITCH: Some of them,

I believe, are of that thinking. I think if you read certain newspapers, after a given length of time you come to that conclusion, that we are going to go in there and tell them how to direct their activities and take their plant over; but employers after a certain length of time who have had labour relations experience find that that is not so, and their relations with the unions are very good.

MR. MORNINGSTAR: Were you able to organize on this plan where you increased the rates before you were certified?

MR. STEPHANOVITCH: Yes. Fortunately for us, the people did not break it.

MR. REAUME: You mentioned in here -- I don't know on what page -- where you thought we ought to start training men for these boards to act as chairman?

MR. STEPHANOVITCH: Yes.

MR. BOYER: Yes, that is a very important thing. You get a judge or somebody sitting on the board and he is not familiar with labour relations; he is not familiar with industries and so forth, so you need an educational programme for these people.

MR. REAUME: Well, if judges are not going to act on this Board, I don't know

how soon that will be, it may be well if that were spoken about now, don't you think -- to replace these judges?

THE CHAIRMAN: Well, some suggestion has been made. Whom would you suppose should be trained for these jobs?

MR. BOYER: I would say he need not be in any particular field. In the past, the history has been that they are judges or magistrates. We are of the opinion that clergymen, teachers, social workers and so forth could be trained to labour relations and so forth.

MR. STEPHANOVITCH: People of that nature would be unbiased, I believe, Mr. MacDonald.

THE CHAIRMAN: Mr. MacDonald, I gave one instance of Dr. Nicholson from Nova Scotia who was a very capable reverend.

MR. PESHEAU: Mr. Chairman, may I leave this thought with you.

THE CHAIRMAN: Yes.

MR. PESHEAU: When you make your recommendation to the Legislation, please bear in mind that we are human beings. You are dealing with human beings, and not with corporations with a profit at stake. Please bear that in mind, because I think it is very

important.

THE CHAIRMAN: Thank you very much.

MR. BOYER: Mr. Chairman, I think we have said all that we can on that.

THE CHAIRMAN: If you gentlemen have any more to say, we will be very glad to hear you, because I think the Hamilton people at their own request will be glad to present their brief at another date.

MR. PESHEAU: Along this same line of education, the problem of education in the schools, we believe that some sort of education should be given to our children in school along the line of trade unions, because they are taught business and so forth, and when they come out of school they are generally anti labour because they don't know, and we would like to see some system set up.

THE CHAIRMAN: Sort of a history of the trade union movement?

MR. PESHEAU: Yes.

THE CHAIRMAN: I think that is something we should consider.

MR. STEPHANOVITCH: Mr. Chairman, I think you should consider, if you are able to look into some matters which have given us some concern of recent date, and that is in

some instances where we have applied for certification, by the time we get to the Board level of the certification or in the conciliation, quite frequently we find that employees are laid off, and the argument is advanced that there are no employees, so why have conciliation and why certify? Quite properly the Board has no choice because there must be employees in the union.

THE CHAIRMAN: I think you dealt with that in your suggestion that the time should run fromthe date of the application for certification?

MR. STEPHANOVITCH: That is right. And I do have one more matter that was not dealt with, and that is one where you can apply for certification -- and this has happened to us on numerous occasions, the tendency is, and it is happening particularly in the lumber and saw mill quite frequently, to sub the work out to little jobbers. In other words, here the corporation has a given area to cut pulp and timber in, and we apply for certification of the company's employees, and low and behold, in a short while you find the employees are no longer employees of the company but employees of the jobber, and according to the Act, you must certify the

employer. In this case the employer becomes his jobber, and there were 15 in one area alone.

THE CHAIRMAN: Was that covered by your suggestion about the continuity of the agreement?

MR. PESHEAU: Not in certain cases, sir.

MR. ROWNTREE: Do these men work as much for a jobber, then, as they would with the union?

MR. STEPHANOVITCH: It depends on how those times are.

THE CHAIRMAN: Have they in the last few years?

MR. STEPHANOVITCH: No -- maybe recently a little bit, but in the last few years when times have been good and prosperity has been here all over Ontario, there has not been that sort of tendency. We look upon it as a means of trying to circumvent the Act.

THE CHAIRMAN: Then, a worker does not need it in that case?

MR. STEPHANOVITCH: He needs the union. Certainly he needs the union.

THE CHAIRMAN: Why? You told me the reason you organize is to give them better wages, primarily?

MR. STEPHANOVITCH: Conditions.

THE CHAIRMAN: Yes.

MR. STEPHANOVITCH: Economic needs in life.

THE CHAIRMAN: He has not lost anything by going to this job; he has not lost anything by being on another job?

MR. BOYER: There is no guarantee the company will keep him.

THE CHAIRMAN: There is one question --

MR. BOYER: The basic problem of this is this, as Mr. Stephanovitch has pointed out, is they find out the union is coming in to organize, so immediately the company jumps the raises as high as 15, 25, 35, 45, and 65 cents as it was pointed out. There is nothing to prevent them, when the union has moved out, to take it away from the employee; whereas the union basically number one provides the stability-- I mean a man under agreement has his wages continuing; number two is as if the union were not there, even the thought of a union coming into the area, the company has to pay certainly as much if the union would step in right quick.

MR. HOULD: Would the terms of reference of your committee permit me to recommend to the company that adequate fair wage clauses be put

into contracts let by its individual departments?

THE CHAIRMAN: I am afraid that that does not come under this department. We have got a big enough order right now.

Anything further, gentlemen? If not, I would like to proceed.

MR. REAUME: Wasn't there some mention of the fact that Mr. Pigott was here from Hamilton? -- That we were going to bring in the Carpenters'?

THE CHAIRMAN: That is right. Mr. Perkins will be in touch with you men and let you know when this meeting is going to take place so we will have the advantage of hearing it.

MR. REAUME: We will have a real old fashioned knock 'em down on the floor.

MR. YAREMKO: A few minutes ago the gentleman there wanted to make some statement.

MR. PESHEAU: The statement I was going to make was very short. You asked the question if the police should only enter the area after there is violence. We say that there should be no violence in the first place, and there was no violence in this area until the police came in. That is the point we are trying to make, is that in the Beardmore

area, there was no violence in there until the police came in.

THE CHAIRMAN: Gentlemen, I want to thank you very, very sincerely as the Chairman and also on behalf of the Members of the Committee for the very great assistance which you have given to us. Your brief has been most interesting, most helpful and most thought provoking, and I assure you that your recommendations will receive our very serious consideration. We do hope you will come back on the occasion of what we hope will be a most interesting session between the Carpenters and that branch of labour with the Builders.

One moment, please, gentlemen. Now, we have listed for this afternoon the Hamilton Building and Construction Trades Council. They have expressed the desire through the Secretary to me that they be not heard today, and for that reason I am allocating to them now that they will be first on the list on Tuesday, the 22nd day of October, and following them we will have the Toronto Building and Construction Trades Council the same day, if possible.

Tomorrow morning, gentlemen, we will meet at 11 o'clock when we will hear from the

Canadian Union Conference of Oshawa and the Ontario Mining Association.

One moment please.

MR. ROWNTREE: Was it not the intention for us to get minutes of these meetings within a day or so?

THE CHAIRMAN: That is going to be done. Mr. Perkins is looking after that.

Thank you very much, gentlemen.

---- The hearing adjourned at 3.30 p.m. to resume the following day Wednesday, October 9th at 11 a.m.

LEGISLATIVE ASSEMBLY OF ONTARIO

SELECT COMMITTEE ON LABOUR RELATIONS

Committee Room No. 1, Parliament Buildings,
Queen's Park, Toronto, Ontario

Wednesday,
October 9, 1957

JAMES A. MALONEY	Chairman
HAROLD PERKINS	Secretary
GEORGE T. WALSH, Q.C.	Committee Counsel

MEMBERS:

G. E. Jackson
Donald C. MacDonald
Ellis P. Morningstar
Raymond M. Myers
Arthur J. Reaume
H. Leslie Rowntree
J. W. Spooner
Albert Wren
John Yaremko
Robert Macaulay

APPEARANCES:

MR. Darren L. Michael	Executive Secretary, Department of Public Affairs Industrial Relations Division of the Canadian Union Conference of the Seventh Day Adventist Church in Canada.
Mr. J. B. Metzler	Deputy Minister of Labour
Mr. J. H. Stovel	Ontario Mining Association
Mr. J. Beattie	
Mr. E. G. Crayston	

THE CHAIRMAN: Gentlemen, it is now eleven o'clock and I presume that all of you have read the Minutes of the third session of the Select Committee on Labour Relations which was held in this room on the 23rd, 24th, 25th and 26th of September. I omitted bringing the Minutes to your attention yesterday because of the heavy agenda set out for us but I am now assuming that everybody has read them and would you please let me know if there should be any corrections?

MR. MacDONALD: I have not any correction but I was curious about observations of Mr. Yaremko on voting procedures in the Committee, in the middle of the first page. I discovered that Parliamentary Procedure in Ontario by Alex C. Lewis in the section dealing with committees, pages 125 to 126, that on page 127 it says:

> "The names of members attending
> "each Committee shall be entered
> "by the Committee Clerk in the
> "Minutes and when a division
> "takes place the Clerk whall
> "take down the names of the members
> "distinguishing on which side of
> "the question they respectively
> "vote."

Just the way the Minutes were recorded in the first instance, therefore, I do not know in the light of what rules Mr. Yaremko's objection was

taken.

MR. WREN: Is that a Select Committee or Standing Committee rule?

MR. MacDONALD: Standing Committees and Select Committees that the section deals with. It is not a big enough point to bother with but I am always wondering under what rules we operate in Ontario.

MR. WREN: What is the point in raising it?

THE CHAIRMAN: Is there anything else in the Minutes?

THE SECRETARY: On that point I have consulted with the Clerk of the House and have received a written ruling from him along the lines of the record in the Minutes.

THE CHAIRMAN: That is in accordance with Mr. Yaremko's understanding?

THE SECRETARY: Yes.

THE CHAIRMAN: Do you have the written ruling there?

THE SECRETARY: Yes, I have. (Reads ruling).

The only point that Mr. Lewis was doubtful about was, in the House a recorded vote can be applied for by five members, but there are no rules as to how many members are required in Committee.

THE CHAIRMAN: Thank you.

MR. WREN: I move the Minutes be adopted.

THE CHAIRMAN: Moved by Mr. Wren, seconded by Mr. Morningstar that the Minutes be adopted as read. All in favour? Carried.

Now, gentlemen, this morning we are to hear from the Canadian Union Conference and the brief is being submitted by the Department of Public Affairs of the Seventh Day Adventist Church, and will be presented by Mr. Darren L. Michael, Executive Secretary of the Department of Public Affairs, Industrial Relations Division of the Canadian Union Conference of the Seventh Day Adventist Church in Canada. Mr. Michael?

---(Mr. Michael reads brief)

MR. MICHAEL: Mr. Chairman, I should like to ask your indulgence to make one short observation. We readily recognize that there are certain difficulties of a procedural nature that might give rise to legitimate apprehension on the part of trade unions, management representatives and other parties as a result of the religious convictions of those who cannot join a labour union. For instance, we would point out that in the event of a representation vote the employee whose religious convictions prohibit

him from membership in a labour union finds himself in a most difficult position and similarly the union seeking certification as a bargaining unit is also confronted with a dilemma. To vote for the union and yet not join it and ask to be excused from joining it puts in this instance the Seventh Day Adventist workingman in a bad position. On the other hand, his abstention from voting could conceivably cost the applying union their certification, hence he becomes in the eyes of the union an anti-union factor, which is understandable, but we feel not quite fair .or an accurate conclusion.

I mention these things to show you that we are not unmindful of the problems, the technical, complex problems, inherent in getting the procedure suitable to the majority, to the specific legitimate and valid claims of the minority. We like to feel that the capacity to honour the rights of the weak without impairment of the strength 'of the rights of the majority constitutes one of the most important characteristics of our democratic way of life, which we all cherish and like to preserve.

As to the way to implement that we would welcome your guidance and your counsel.

THE CHAIRMAN: Thank you. The appendices to which you refer are attached at

the back of the brief?

MR. MICHAEL: For your information, sir.

THE CHAIRMAN: Now, then, gentlemen, we will deal with this brief in the usual manner and I would ask if there is anything arising out of the introduction on page 1? Page 2, Historical Background? Page 3?

MR. WREN: Mr. Chairman, may I ask the witness here, for the record, what proportion of the fourteen thousand members you have in Canada approximately would reside in Ontario?

MR. MICHAEL: Approximately a little bit more than one-fifth of adult members.

MR. WREN: Tweny-five hundred, approximately?

MR. MICHAEL: Nearer three thousand.

MR. SPOONER: Is the bulk of your membership in any one province?

MR. MICHAEL: No, they are in all ten provinces. Perhaps we could say in Quebec there are the least and British Columbia have the most; Ontario and Alberta are approximately equal.

MR. YAREMKO: On page 3 at the bottom of the page the statement is made, and it has to do also with the additional comment that was made -- may I ask this question: Would any of the members of your Church sign a petition of intervention against a union?

MR. MICHAEL: Would they?

MR. YAREMKO: When a union applies for certification in the procedure whereby a petition may be signed by other employees ---?

MR. MICHAEL: Is it possible for them to do so?

MR. YAREMKO: Not if it is possible, but if through strict adherence to your principles would they do so?

MR. MICHAEL: Our denomination by structure is not an authoritative thing in that sense. There are members who feel it is perfectly proper to join a labour union. This would be a strictly personal matter. If the member had convictions against joining a union and came to any of the officers of the Church for counsel and advice we would certainly advise him in that situation perhaps not to sign an intervention. We feel that it would prejudice his case and cannot accurately reflect his thinking. But if he insisted and wanted to do it, if he was anti-labour we could not stop him, we could not exercise any discipline. There are members in the Church who belong to unions and they are just as good members in our sight as those who do not.

MR. REAUME: You do not stand in favour of the employer any more than you stand in favour of the employee, as I understand it?

MR. MICHAEL: We like to feel we are neutral. Some people question whether we can be, but theoretically, yes.

MR. REAUME: Then, any action on the part of the church is purely one of faith and nothing else?

MR. MICHAEL: I am not sure I understand that statement, but it is based on religious principles or convictions, yes.

THE CHAIRMAN: Page 4? Page 5, Statement of the Problem?

MR. MYERS: Are there other people who join with you in their opposition to coercion or are you the only sect that thinks that way?

MR. MICHAEL: Mr. Chairman, I am informed that there are others. We have not been in any close liaison with them; we have inquired if they wished to exchange views with us but they have not shown any disposition to do so. I understand there are others.

MR. METZLER: I can shed a little light on that. There is a group known as The Brethren, and they are also opposed to organization.

MR. MacDONALD: May I have one point clarified? In the use of the term Canadian Union Conference, is Canadian Union to be taken in the context that we have had other representations made to us, namely, that the union should be

Canadian only, or is this a choice of words with reference only to your own organizatin?

MR. MICHAEL: Mr. Chairman, I suppose there are some denominations that have a lingo of their own. It is purely an administrative label that is peculiar to our structure and administration. We have the local congregation, a group of people in an area, and they make a conference. A number of conferences in the church are a union of conferences. In this sense it is national, but we have other areas like that and it has no labour trade union connotation although we quite frequently get phone calls in Oshawa and we are happy to serve as forwarding agents for the auto workers.

MR. WREN: In Oshawa you have quite an excellent printing shop. Do you have a collective agreement within that shop at all? What are your relations with the employees in the plant?

MR. MICHAEL: Well, we have a denominational printing plant similar to thirty or fifty others we have around the world, and there is adjacent to it a private commercial place. I can only state officially for the denominational one, and all the employees are members and within the denomination there is no distinction between employer and employee in the usual sense. It is operated as a business, church literature and distribution of it to our churches, and I think right

now during peacetime when we can import freely from our larger American printing houses we have a very small staff. It is largely a bookkeeping staff now.

MR. METZLER: I can add another name to the list of groups that I think are in the same position as The Brethren, the Mennonites, who are fairly strong around Kitchener, I think are also of the same thought.

THE CHAIRMAN: Page 6?

MR. WREN: I notice in glancing at the appendix, the list of union organizations which have at least some understanding of your position, Glancing through it quickly I have not noticed any Canadian locals -- do you have any ---?

MR. MacDONALD: Carpenters and joiners, page 2.

MR. WREN: But they are largely American---

MR. MICHAEL: Yes. Mr. Chairman, there are, I think, some explanations. We have, I think, over one-quarter of a million members in the United States, therefore, the incidence of this problem would naturally run higher and the need for some understanding would be greater. We have one union that I am personally acquainted with, a carpenters' local in Windsor, and they have a gentlemen's agreement with us. They seem extremely hesitant or reluctant to commit anything to writing; it is

purely a gentlemen's agreement, but it is operating just as satisfactorily as some of these written ones, but we cannot list it because there is nothing signed. We have found, and we are not saying this in a derogatory manner, that perhaps there have not been enough cases yet to develop any body of precedent in Canada. We have found that Canadian unions, especially those of the craft type, have been extremely indifferent, in some cases I suppose it would be fair to say hostile to our overtures or approach, even though sometimes their counterparts across the line have been extremely helpful or understanding. We do not know what the explanation for that is.

MR. MacDONALD: You indicate you have had cooperation from the UAW that has not produced as yet any actual agreement?

MR. MICHAEL: Yes, it has in the United States, and the letter that I had we submitted here -- no, we just have the letter -- all the locals were circularized to the effect that they were instructed to cooperate and in Windsor there are auto workers' unions there, locals that recognize us without signing anything, purely on the strength of the international proposition, and they feel no need to sign, and we have not pressed for the signature because our principal objective was recognition of this point, not getting a signature on a

document. The auto workers have been most helpful and cooperative.

MR. REAUME: It all goes to prove, I think, that the people there are very fair in all these things.

MR. WREN: That is a broad statement.

MR. MICHAEL: I live in Windsor so I shall have to disqualify myself.

MR. MacDONALD: This document, Exhibit B, it is what you in effect present in seeking to get agreement with the union?

MR. MICHAEL: Yes, it is a basis of agreement.

MR. REAUME: I wonder if I might just ask a question which may be a little out of the brief or maybe a little out of order?

MR. JACKSON: I cannot hear you.

MR. REAUME: I want to ask a question that is probably out of order. I was wondering in the event of war and you were asked to join the army or conscription came in, would you have any objection to that, or do your members feel they should not be called upon? I know you have allegiance to the Queen and all that.

MR. MICHAEL: I do not object to that question a bit.

We are not conscientious objectors, we are not pacifists, but as a denomination we have

taken the position of being non-combatants. We prefer to be called conscientious cooperators. We have no objection to joining up but prefer to serve in positions that involve saving life, medics, quartermasters and some of those positions. I might say there were Seventh Day Adventists servicemen who won some of the highest decorations for gallantry and bravery, who were non-combatants but went into the front lines absolutely unarmed.

Then, again, there are other members who feel perfectly clear in joining or bearing arms, and we take no disciplinary action against them, but by and large the majority are non-combatants.

MR. REAUME: I wanted to ask that question because this brief, by the way, is not the same as any of the other briefs we have been dealing with in the broad sense, in the sense that the whole matter, I would think, is a matter of faith, strictly on that basis enforced on a person as to whether or not he should be called upon to join a union. I think in that instance there should be some exception taken. In other words, it is a matter of faith over and above this business of joining a union or not joining.

MR. WREN: Would you tell me, do you know of many instances where any of your people have lost their employment through their religious

convictions and union actions? Has any hardship developed from this?

MR. MICHAEL: Yes, Mr. Chairman, fortunately because of the size of our membership there have not been too many. I know of an instance in Calgary, a carpenter; I know of an instance in Windsor -- until we were able to negotiate an agreement with local carpenters. A young man with three children happened to be working for a Seventh Day Adventist builder who employed other people, and we do not discriminate against employing union help, but the union was ready to strike that builder unless he would fire a fellow church member. That man was out of work for several months in Windsor, in that area, in Essex County, until we were able to work out an agreement with the local. Now, the local was very anxious to solve the problem, but there was a period where there was real hardship. We quite sympathize with the position they were in.

MR. MacDONALD: Have you worked out any procedure whereby you can distinguish between the genuine objectors on the basis of religious faith and those who might muscle in on it, if I might put it that way, to avoid union membership?

MR. MICHAEL: Well, Mr. Chairman, in our church we have several hurdles where a man begins to prove. In the first place, we have the observance of Saturday and that pretty well eliminates

those who have other objectives in mind. He has to be willing to give up a job some times. In those circumstances specifically we feel that the provision to pay the equivalent of union dues,and we agreed with the carpenters union in Windsor when they suggested that they add to that the penalty for absence from meetings and our man is willing to pay that, which means he pays considerably more than a union member. We think that pretty well rules out any charge that this may be a pocketbook conscience. When a man is willing to take an inferior position, maybe a cut in pay,for his convictions you can pretty well count on his having sincere convictions.

There are always people whose motivation you cannot be sure of.

MR. MacDONALD: What I had in mind was, have you any procedure with the union and the local church maintaining liaison so you know who are bona fide members of the church and therefore can be given this exemption when they claim it from the union?

MR. MICAEL: In the early days -- some ten years ago in the States -- we had a form which we have now discarded largely because the unions say we do not need it, but we had a form that was to be signed by the clerk of the local congregation saying that this man or this woman was a bona fide

member in good standing. It seems nowadays the union just phones the parson and if he confirms it, it validates these persons' claims, and that is enough for them, so we have dispensed with that form.

MR. MYERS: Are there any places where there is legislation similar to this legislation which you recommend?

MR. MICHAEL: Mr. Chairman, I do not know whether I can intelligently answer that. I have been told that there are sections in the States that have the type of legislation which is very objectionable to certain people. I would not want to suggest that what we are asking for was at all equivalent to that, but I must say that in those points that legislation does care for our needs -- I do not know that it would be necessary to have it quite that way.

MR. MYERS: If you are right in your view of the Scriptures,a man ought not to be forced to join a labour union, then a man could not have that belief and not believe in any of the other doctrines?

MR. MICHAEL: Quite right.

MR. WREN: Do you ever find any antagonism from the employers where your religious convictions preclude your working on Saturdays, where it is a working day as far as he is concerned?

MR. MICHAEL: Very frequently. I do not know that it is antagonism. They just cannot put up with that. There is not enough time for antagonism to build up.

THE CHAIRMAN: Page 7? Page 8?

MR. YAREMKO: On page 8 you say:

> "By the same token, we assert the
> "right of an individual to refrain
> "from joining a labour union with-
> "out any consequent penalty or
> "disability."

That is an unqualified statement. You do not add to that "provided that the same is done on the basis of his religious beliefs". You make an unqualified statement there.

MR. MICHAEL: Yes, I think I understand what you mean. I think we want to make it as unequivocal as the right to join the right not to join, even though in our submission to the union we have qualified that to the exetnt that we recognize the principle that you cannot get something for nothing. Unions do obtain certain benefits for the working man, and we are proud to recognize that, but in principle and in theory we feel that he should be free not to join just as you are free to join.

MR. MacDONALD: Would you add, if you had something like the Rand formula, whether or

not they joined,they financially support it?

MR. MICHAEL: Mr. Chairman, it is coming into the philosophical realm. There are practical considerations -- considerations of courtesy and understanding of the other viewpoint. We are sympathetic to the unions' objectives and problems and in claiming that right we would not want to do so at the expense of their prior rights. In theory, we would like to say and believe that it is possible to not joint, to be just as free not to join, without being penalized.

MR. WREN: What position would you take if a union organizer was soliciting applications for membership in a union leading up to certification? Would an employee who was a member of your group, be willing to sign an application and submit his dollar to enable the wish of the majority of that employee group to survive?

MR. MICHAEL: As I mentioned in my statement it is right there we find ourselves in a very difficult position. There may be conditions in that particular plant that would lead our man to feel that union membership for the whole would be a positive, constructive solution, and in that sense he may feel justified in signing. But, then he finds himself in the illogical position afterwards of going to his union adviser and saying, "I cannot join."

MR. WREN: Well, theoretically what crosses my mind, a union may sponsor and the application has been passed and your one application may be the difference between getting a 55 per cent or not getting a 55 per cent?

MR. MICHAEL: We recognize that. I think that is what we try to recognize in the statement, and we would feel in that sense that the advantage to the union, in order not to put us in a schizophrenic position that the person with views like ours should not be reckoned in that computation.

MR. REAUME: The other point I think of importance was, at the time of the advent of the Rand formula one of the arguments advanced at that time to those people who did not want to join was the fact that they always sat back and did not take any action within the boundary lines of the union, they let other people go out and fight for higher wages and better working conditions and yet they were always willing to take the increases or benefits, and so arising out of that, if they did not join they would be benefited anyway.

Now, it is a matter of faith. Would you have any objection at all to that person, a member of your faith who was not a member of the union but was called upon to pay dues?

MR. MICHAEL; Well, Mr. Chairman, our

position is quite similar to that. We would not make it quite as categorical because it would not be consistent to have our money do what we are not ourselves prepared to do, and so we add the qualification that the money generally speaking, the equivalent to dues, be used in some activity, the welfare fund or sick benefits, or some charity which they support, with which we are in sympathy. We like to feel that our money is not doing something we do not do ourselves, so the Rand principle is approximately the same with that added exception.

MR. MacDONALD: I want to dwell on this document because the basic beliefs underlying this brief I think have achieved a very good consistency, but there is one point where I think there is an inconsistency -- including the statement the right to work means that you do not have to join the union and you do not tie in some equivalent of the Rand formula. What you in effect are suggesting is that some people outside of your group can get away free, not join the unions and yet accept the benefits from it and yet you are wanting it for your own members.

MR. MICHAEL: I was not aware of any philosophical inconsistency in our brief because there are certain rights we lay claim to, but we also recognize that in a society where there are people with equal rights then our claims have to be

modified so that the freedoms of all are not impaired. In theory it is possible to detach a Seventh Day Adventist with views like this from all his neighbours. We would say he has the right to not join, but when you live in a society with others having equal claims then we have to modify that. That is a pure statement of theory, of philosophic theory, and we believe we have given recognition to that when we say you cannot get something for nothing. The union does give us some benefits; we should not sit back and reap the benefits and not do anything, so we think that this modified type of Rand formula approach is quite consistent with our belief in the basic principle of the right, and when you work in such a context you have to accept certain things and do it courteously, and we are very happy to work under this formula.

MR. MacDONALD: What in effect you are saying in the second sentence on page 8, under normal circumstances you would add the proposition that to be consistent with social obligations, even if he wants to retain his right to stay out of the unions ---

MR. MICHAEL: If I might make a statement in another realm, the realm of religious freedoms -- there are certain movements to propagate your views which in the absolute sense they cling to, but you modity this by the criteria of good deeds,

consideration and courtesy to other people with differing views. While you may feel that you have the right to insult other people by promoting your developing view very vigorously, if you are a good Christian you will modify that and exercise some charity in the exercise of that.

MR. REAUME: The element of faith in there, of course, is a strong one. I do not know how far we might go with that.

For instance, some group -- a religious group, as in the matter of faith again -- are opposed to paying an income tax -- I do not think that will ever happen.

MR. WREN: I will join that one.

MR. REAUME: A lot of people will join. Then, they say they are not opposed to paying income tax but they think this money should be put aside for some special use, like health insurance, not for the general account in the operation of the country but in a health insurance account. I have respect for your faith, I know you are honest about it and sincere, because I have had some dealings with people of your church, but I am just wondering how far we can go in this country.

MR. MICHAEL: Mr. Chairman, almost any faction can have its extremes, but to the people who are espousing them they are not extremes. As a Canadian I am concerned about dealing with the

Doukhobors, the Hutterites -- their rather unique factions -- and I think it will be a source of perpetual concern in any democratic society how to accommodate the peculiar or unique views of the minority. If they get too pugnacious they may have to be invited to go somwhere where they can be the majority.

MR. REAUME: It may bring about a condition -- I don't say it would -- but the people who do not want to join unions, and, after all, the majority of people say unions are good for the people and will stay, it may be possible that some people -- I am not saying this could happen -- might join the church, any church, if they thought that would avoid the possibility of joining the union and paying the dues.

MR. MICHAEL: I might observe, with your indulgence, Mr. Chairman, that we were told that by one very distinguished labour leader in the United States who has very bushy eyebrows and whose oratory is well known. He told our organizer: "You do not belong in this world. You have no place here." We replied that we were trying to get out as quickly as possible but until such time as we could ---

MR. MORNINGSTAR: It seems to be your hardship that when they go to certify a union or canvass the vote the people do not make a vote and that is a vote against the union when you are

really neutral on it.

MR. MICHAEL: Yes. We would wish that our position could disqualify us from being counted against or for. We should not be a liability to the union.

MR. SPOONER: Mr. Chairman, may I ask a question?

THE CHAIRMAN: Yes.

MR. SPOONER: What is the attitude of your members generally towards municipal governments or provincial governments or federal, as candidates in elections?

MR. MICHAEL: We have never been approached with a nomination.

MR. REAUME: You do not become approached; you have to go after it.

MR. MICHAEL: It is an intriguing question for us and perhaps we can answer it quite easily by saying we have no objection to voting, to paying our taxes. We have some -- I am speaking now personally -- some reservations at as to how a man could adhere to certain religious convictions and at the same time conform to party discipline. I am not a politician; I do not know enough about those pressures ---

MR. REAUME: It comes up at a good time.

MR. MacDONALD: Let us follow this up. If I might revert to a comment on page 4, what do

you mean when you say the church does not concern itself with the affairs of government?

MR. MICHAEL: Well, we believe in a separation of church and state in the sense that the church does not ask the state to impose the church's morals or code of morals.

MR. REAUME: In other words, you do not feel that a man who offers himself for office and serves in office, that that man has not any opportunity of getting ahead?

MR. MICHAEL: Certainly not. We think there are enough biblical examples of men who have served their countries well. The feeling is this, that the state perhaps should maintain a minimum modicum of morality. The church among its members can promote a maximum, and when a man of deep religious convictions seeks to serve in public office certainly his own personal conviction should play a part in guiding his conscience, but I do not think in our view he should then become a spokesman for a religious view.

MR. MYERS: You stick to the religious end of it and do not take part in politics?

MR. MICHAEL: Yes, we do not believe in a Godless society; that is our feeling. We feel it should be a personal matter.

THE CHAIRMAN: Gentlemen, we are on page 10 now, and I think we have discussed this matter.

Page 11? Page 12?

MR. YAREMKO: On page 11 you are in effect adding a qualification to your first or earlier unequivocal statement?

MR. MICHAEL: Yes.

THE CHAIRMAN: Anything further on page 11? Pages 12, 13 or 14? Page 15, The Summary and the Proposed Amendments to the legislation? Anything further arising there?

MR. MacDONALD: Mr. Chairman, the witness added a further comment with regard to the voting procedure and certification. I think I am accurate in stating that all the representations stated so far have been for placing it on a more democratic basis of those voting rather than those eligible to vote, but your position presents another anomaly. You do not want to participate and yet by not participating you are in effect -- your vote in effect ends up on one side, namely against the unions, and therefore I conclude that you would favour the proposition of counting only those votes that are cast?

MR. MICHAEL: I think that would be a fair conclusion. That is another reason for making the change.

MR. YAREMKO: But you would be content with the proposition that if some system were worked out that your members would be not disqualified but

not included within the category of those participating ---

MR. MICHAEL: In the vote.

MR. YAREMKO: In the vote, either one way or the other?

MR. MacDONALD: In other words, they would be in the category of those absent from work?

MR. REAUME: Oh, no.

MR. YAREMKO: You would be content if your members were not put on the list of those eligible to vote -- one or the other?

MR. MICHAEL: Someone suggested in a conversation we had -- asked if we would want to be removed from the provisions of the Act. I do not think we would because we enjoy the protection of the law and we want to do our fair share and part, but I think any device that would not cause our position to weigh against the union we would naturally welcome. We have not made any specific suggestion because we felt it was outside our competence as to how the device may be devised.

MR. REAUME: You said earlier in the brief that you were neither on the side of the union nor the company, employer or employee. Now, in the matter of voting, if you do not vote you are in effect on the side of the company.

MR. MacDONALD: Or at least opposed to the union. My second last comment I think was

misunderstood. I think at the present time certification for those who are not at work on the day of voting their names are struck off the eligible list. Now, presumably your problem could be met in that way too.

MR. MICHAEL: Not going to work that day?

MR. REAUME: Yes.

MR. MacDONALD: There seems to be some dispute on this. If you have one hundred people who are eligible to vote, I think I am right, if five are away on the day of voting those five are struck off the list; they were not at work on the day of voting and are struck off, so your eligible list becomes ninety-five instead of one hundred.

MR. YAREMKO: Supposed to be at work and deliberately stays away from work that day; does that work?

MR. METZLER: I do not think it would be possible for whoever is taking the ballot. For instance, it is always an officer of the Department of Labour -- that is, an employee of the Labour Relations Board. They go out and conduct it and I do not think they examine into the basis of which people are absent. They may be sick or may be off on holidays. There are other considerations that would operate in the field, but I would imagine they ask for and receive from the employer a list of the

people who are not working in the plant at the time the vote is being conducted, and those people would affect the situation, reduce the eligibility list.

MR. MacDONALD: In other words, even if we cannot persuade the government to change the voting procedure your problem could be solved by being on the ineligible list and not going to work that day?

MR. MICHAEL: It may be that the unions might not appreciate it being done this sort of backdoor way, but if it is the only way we certainly will study the use of it.

MR. METZLER: Mr. Chairman, there are two possible situations that could arise, and I do not think they have been taken into account in connection with this brief. The first is the question of employment. I do not know whether there has been a submission as to a person who is of the Seventh Day Adventist persuasion offering himself to an employer as a possible employee where conditions are such that at the very outset it would cut across his beliefs because of the fact that there may be, for instance, a continuous shift proposition where everybody in the employment must take their turn on Saturday in order to swing the plant, and accept another day off. That is a basis of consideration that would operate

right from the outset. I do not know whether the thought is, or the proposal is, to effect a schedule of shifts by the employer as such. That is the first thing I am concerned about.

The other thing is, where you already have an established trade union practice. For instance, you may have a closed shop provision or a union shop provision that is already established, and the person from the Seventh Day Adventist persuasion endeavours to get employment in that particular plant, or with that particular group. It is known to the candidate that he must, as a condition of obtaining employment, either be a member of the union at the outset or within a limited period join the union.

Those are two situations.

MR. MacDONALD: Except in the latter one, surely it would be met by this arrangement, the agreement with the union.

MR. METZLER: Well, those are two specific instances of the situation already being established and in growing up, if a man has been taken into employment and then finds himself faced subsequently with it.

MR. MORNINGSTAR: When you are organizing for a union, if you do not vote then that is in favour of the employer, is it not?

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MR. METZLER: If you are in the plant and you are on the list as a member of the bargaining unit and you do not vote, well, then, there is no question about it. You can draw the inference that it would count against the union because under the present system the union must obtain a majority of those who are eligible to vote.

MR. SPOONER: If the employee is struck from the list his vote is not counted one way or the other?

MR. METZLER: That is right. If there are reasons that are contemplated by the legislation as it presently stands, such as not being at work on a particular day, then the eligibility list is reduced by that number of people.

THE CHAIRMAN: Thank you very much, Mr. Michael. We appreciate your coming here and your brief will be given our very serious consideration.

MR. MICHAEL: Thank you, gentlemen.

THE CHAIRMAN: The next brief is from the Ontario Mining Association, and the gentlemen in support of the brief are Mr. Stovel, Mr. Beattie and Mr. Crayston. The brief will be presented by Mr. Beattie, and you may proceed now, Mr. Beattie.

---Mr. Beattie reads brief.

MR. BEATTIE: Mr. Chairman, I have a supplement which was prepared at a later date.

THE CHAIRMAN: Would you care to read it now?

---Mr.Beattie reads supplement to brief.

THE CHAIRMAN: Thank you, Mr. Beattie. Now, then, gentlemen, we will proceed to discuss this brief in the usual manner, and I would ask if there are any questions arising out of the contents of the first part of page 1.

MR. WREN: Mr. Chairman, in connection with No. 1, could you give us some instances where the Board is losing its power?

MR. BEATTIE: I do not think it is a question of the Board losing its power; it is a question of the Board being given probably more power than some of us feel is desirable. The instance of that, of course, is that most decisions of the Board are not subject to review in the courts.

MR. MYERS: Do you think if they were subject to review that every decision would come to review?

MR. BEATTIE: Well, I am not prepared to answer that fully but I should think there could be a system evolved where in time at least there would be a minimum of difficulty.

MR. MacDONALD: Mr. Chairman, Mr. Beattie has raised another point, namely that the Board has powers now which in his opinion they should not have. Point 1 states that there should be changes so that it could retain its present power. May I repeat the question put earlier: what are some instances of its present power, so the Act should be maintained to retain it? The changes in the Labour Relations Act, if the Labour Relations Board is to retain its present power?

MR. BEATTIE: We say "if it is to retain its present power."

MR. WREN: Yes, but you are suggesting some ---

MR. MacDONALD: An implication that you think they should have reduced power and therefore there should be some changes?

MR. BEATTIE: Yes, that is right. If the Board is to remain essentially as it is now then we feel that there should be some changes made to make their decisions generally more acceptable. We are not saying that all rights should be taken away from the Board but ---

MR. MacDONALD: The Labour Relations Board was set up in the first instance because after considerable experience it was found that the courts are not the best place to settle the problems. The import of your suggestion here is

you want to make it possible to take all the decisions of the Board into court, so the Labour Relations Board is really just a hurdle along the way that presumably you would be glad to be rid of?

MR. MYERS: How would you overcome the delays in taking it to the courts?

MR. BEATTIE: Well, Mr. Chairman, I believe that all or some of the decisions of the Ontario Labour Relations Board were subject to review in the courts -- we will say that is the way it is decided to make the change. I am quite convinced that people are sensible enough to work out a system that would not be too onerous in any way. That is, I cannot believe that it would result in all decisions of the Board going to the courts. If it did, I would think there would be something wrong with your application.

MR. MacDONALD: Have you any particular group of decisions that you think should be subject to appeal to the courts?

MR. BEATTIE: No, we have not listed any particular ones.

MR. WREN: Have you any types that you think should go?

MR. BEATTIE: I am not sure, Mr.Chairman, that I can name anything specific at the moment. Through the years there have been instances of decisions that I do not think probably were acceptable

in all respects. There have been differences as to who should or should not be in the bargaining unit, for instance. That is one type of thing.

MR. MacDONALD: Do you suggest that should be taken through to the court after the Labour Relations Board has made a decision?

MR. BEATTIE: I am not suggesting any particular thing at the moment, any particular one at the moment, but what I think we do feel is this, that a Board such as the Ontario Labour Relations Board must be so set up that it can render complete justice to all parties, complete justice. Otherwise, if there is any doubt as to whether that can be effectively done then its decision or some parts of its decision probably should then be subject to review in the courts.

MR. MacDONALD: It seems to me if you object to some of the decisions now, other than the general feeling that you do not like this procedure of finality resting with the Board, there must be in your experience some specific instance, otherwise I am left with the conclusion that you just do not like the whole operation of the Board at all, and you prefer to have it out of the picture so you can get back to the old style of procedure of prewar days.

MR. BEATTIE: No, we are not suggesting that.

MR. MYERS: I agree the decision of all boards should be subject to review by courts, but the difficulty is, how are you going to do it?

MR. BEATTIE: I imagine, Mr.Chairman, there are many decisions given by the Board which probably most of us would feel they are quite competent to give, and in so doing they are not infringing on the rights of the unions or the employers. I think that is very true.

MR. MYERS: You see, in courts a person appeals on the law, not on the fact, and labour relations would be on fact, would it not? Why would a court be in a better position to judge the facts than the Board itself?

MR. BEATTIE: It may be interpretation of information.

MR. MYERS: I think there should be a review but I do not know how it can be done. Then, how would you pass legislation to require the Board to recognize that employees have rights and so on -- what does that mean, the last four lines on page 1 of the brief itself?

MR. BEATTIE: They have the right to accept the sense of responsibility, do you mean?

MR. MYERS: No. You say here that if as now the decisions of the Board are not subject to review it is recommended that the Board should be required to recognize that the employees have

the right to organize. Certainly they recognize that now, do they not?

MR. STOVEL: That is not a change at all from the present Act.

MR. MYERS: You recommend that the Board shall be required to recognize that employees have the right to organize. Well, do they not recognize that,and the right to bargain collectively? Surely they recognize that. I do not know what you mean there.

MR. BEATTIE: The main point in that -- to bargain collectively through a union chosen preferably for that purpose, and in item 4 on page 2 we list there some matters in which the unions are active, and we feel it is quite possible that some employees do join unions not for what we consider the primary purpose of the union, which is in acting as an agent of employees at their request in negotiating a collective agreement with their employer, but they may want to join a union -- probably do join a union because of the welfare work which they do.

MR. MYERS: I do not understand what that means. Surely the Board recognizes all these things already.

MR. BEATTIE: Well, all we are saying there is -- when we say preferably by vote -- is that probably only in that way will employees have

the choice.

MR. MYERS: I see.

MR. MacDONALD: They have to have a vote if there is any doubt as to whether or not they have a majority; that is the Act now.

MR. BEATTIE: That is right.

MR. MacDONALD: Are you suggesting there should be a vote in all instances?

MR. BEATTIE: Yes, that is what we are suggesting. Take our own instance where we were before the Board and there was a delay in a decision; between the time of the original appearance before the Board and the second appearance there were some seventy-five employees had left our employment. Now, when it came to the decision of the Board the union was certified without a vote and yet we are still in a position that we are not too sure which seventy-five of our men left. Who were the ones who were in favour of the union and who were the ones who were not in favour of the union?

MR. MacDONALD: They left of their own free will?

MR. BEATTIE: They left of their own free will as far as we know.

MR. MacDONALD: That is a unique development because in given instances they are asked to leave.

MR. BEATTIE: Well, they may have been

asked to leave by the union but they were not asked to leave by the company.

MR. MacDONALD: In many instances they are asked to leave by the company in this critical period.

MR. BEATTIE: That was not the case.

THE CHAIRMAN: It has been said that way, but there is no concrete evidence of it.

MR. BEATTIE: There is no concrete evidence one way or the other, but there was a reduction of the original number that the union canvassed of seventy-five.

MR. MYERS: Have you heard of any other instances where there has been a variation of the numbers on the payroll, or is that a unique instance?

MR. BEATTIE: I do not know. That is our first bargaining.

MR. STOVEL: If I may reply to that question, Mr. Crayston is operating a mine in Red Lake, one of the/ more remote areas, and I do not think that high turnover is at all unusual in the remote areas where miners go in and then pull out, particularly in the early stages.

MR. MYERS: Would it make any difference if you wanted a vote and they would vote and then pull out? Would it make any difference?

MR. STOVEL: Well, at least it would be representative of the unit at the time negotiations were going on.

MR. MacDONALD: The net effect of your submission is you would much prefer not to have a union rather than have a union?

MR. STOVEL: I do not think there is anything in here that says that.

MR. REAUME: I notice at the bottom of page 1 you set out the goal, goodwill and service, and under 1 you say the employees have the right to organize. Now, one of the other briefs as presented by one of the unions involved in the area stated that when they go up there for the purpose of organizing they are met with opposition on the part of management. In other words, there is a fence around the camp and the people who work for the mines are in the bunkhouses, or something of that sort, and these organizers cannot go on the property for the purpose of organizing. I want to ask you if that is true or not.

MR. CRAYSTON: There is no fence around our property; in fact, the road to our townsite leads right through our plant and there has always been public access on that highway or road.

MR. REAUME: And after hours of work I imagine in your instance that the organizer can come in and visit the men in their place of abode?

MR. CRAYSTON: The organizers have gone into the bunkhouses and knocked on doors and roused men out of bed in order to talk to them.

Now, we feel that a man, say, working the night shift should not be disturbed during the day shift, and they have no respect for that at all.

MR. REAUME: Of course, a man working nights should not be disturbed in the day. I suppose it also follows a man working days should not be disturbed at night. When are they going to speak to a man?

MR. CRAYSTON: Do they have to speak to him in his place of residence?

MR. REAUME: I do not know; I am asking you. In the city they visit a man in his own home.

MR. MacDONALD: If you did not speak to him in his place of residence where would you suggest they speak to them?

MR. STOVEL: In Red Lake there are always available halls which can be used for public meetings.

MR. MacDONALD: But the Act permits people or organizers to canvass a prospective member, and surely the legitimate place to canvass him is in his present residence?

MR. CRAYSTON: I would say if he was invited in, yes, but to barge in, to knock on every door in the bunkhouse until you get somebody to answer, no, we do not permit that with people selling other goods. If a person wants to invite a person

in, yes.

MR. REAUME: You do not invite him -- a man selling Fuller brushes, he raps on the door and says, "My name is Pete Smith and I am selling brushes," and your wife will say, "Get out of here, we don't want any."

MR. CRAYSTON: Does he get out?

MR. REAUME: Oh, yes.

MR. CRAYSTON: Well, the others do not.

MR. REAUME: I have never seen the operation in one's home, sending an invitation to the Fuller brush man. Really, I do not see where that is bargaining or working in good faith at all. Why would a man in a bunkhouse have to send the organizer a letter and ask him to come if the man knows he raps on the door and if the man inside the room does not want to speak to him he can say, "I don't want to speak to you", and that is the end of it.

MR. CRAYSTON: I am afraid it is not the end of it.

MR. REAUME: Well, he would not hit him on the head with an axe, I do not think.

MR. MYERS: Have you information of any instances where unions have intimidated employees, brought pressure to bear on them to join the union?

MR. BEATTIE: We are not prepared to provide instances at this time.

MR. **WREN**: Well, why do you consider it necessary, having in mind all of the aspects of security -- fire hazards and all the rest of it -- why is it felt necessary by some? The briefs say "all" but I know that is not true, but there are some I have personal knowledge of who make it their business to do everything they can to discourage union organizers from contacting the men. Now, why is it the philosophy or policy in some mines that the place of residence of those men is placed in a so-called trespass area? I have seen actual fences around them. Would you consider that a reasonable treatment of civilized, democratic people?

MR. STOVEL: May I answer that question? I do not know what particular men you are referring to, but if your bunkhouse happens to be inside your plant area, I can see for security reasons why only employees of the plant should be permitted access to the bunkhouse. I do not think it is a desirable condition to have your bunkhouse area inside the plant area, but if approaching your bunkhouse entails wandering through the working operations of the plant I can sec for security reasons why it may be necessary to confine access to the employees.

MR. WREN: I can think of some instances where that would be necessary and some others where it is not necessary. For instance, doors are left

open on a man's personal possessions for everyone to see. Let us take an example of an officer of the ABC union who goes to the manager and shows his credentials, and says, "I am an officer of this group and I would like to see the men in your employ. I do not want to disturb them during the hours of employment. Could you give me a list of those who would be free now, or, are off-shift and are not in their sleeping hours?" And if necessary he could go to the security officers. Why could that not be done? I know some men do it and have no objections at all, but why is it applicable to some, because the intent of the Labour Relations Act is to encourage bargaining and set up the processes where it may be properly established. I think we can all say it is pretty well established, I think, to read the intent you suggest in this brief, to carry on sound labour relations and peace and goodwill. I think you would find a far happier outfit and a far happier attitude if there was in some instances a better spirit of cooperation. Do you not agree with that?

MR. STOVEL: No, I cannot agree with your observations in whole or in part. Under the Act an employer is prohibited from interfering with, or aiding in, the formation of a union. You are arguing that an organizer from XYZ comes in and is given a list of all those he should see. The

employer has an organizer from ABC union in the afternoon and refuses for some reason to give him the list. Therefore he is aiding one union and opposing the other, in effect.

MR. WREN: I am not saying you should discriminate as to who should see the men. I am saying the officer of any reputable union should be given the right to enter.

MR. STOVEL: There is one time where you cannot, where there is a great struggle for bargaining rights, and I am quite sure the organizers of one union would not describe the other union as a reputable union, and vice versa.

MR. MacDONALD: Your solution is to keep both out?

MR. STOVEL: I do not say keep both out; I say remain completely impartial. If the employees want a union they have the right under the Act to have one. Also you said that the purpose of the Act was to lay the formation of the union, and I cannot agree that is the purpose of the Act.

MR. WREN: Well, industrial peace -- you have to have agreement.

MR. STOVEL: You have to have agreements. I would say there has been more strife and strikes where agreements in effect are pending, where there is no ---

MR. MacDONALD: You are now saying it

would be much better without a union -- you would prefer it without a union.

MR. STOVEL: I would not say that at all. The company I am associated with has agreements with a great many unions in this province.

MR. MacDONALD: Which company is that?

MR. STOVEL: Noranda Mines.

MR. WREN: I can recall last week an accepted policy statement coming out of a meeting of the Canadian Chamber of Commerce in Vancouver, I think it was, where the Chamber of Commerce of Canada agreed that while they suggested some abuses in the trade union field of activity which might be controlled, they were in general agreement that means should be found to promote industrial harmony through sound bargaining procedures.

MR. STOVEL: We are not making any suggestion in our brief that is at all contrary to that.

MR. WREN: What I am getting at is, I have lived in the bush all my life, I know your problems better than a lot of people, but what I do not understand is, there are some companies who are adamant in their stand that unions shall not organize on their property and they do not do anything to make it possible to enable responsible union people to discuss union organization with the men. Now, there are areas I know of in my own

district where you say there are -- there is nothing there, plainly and simply property; there are no human beings there directly connected with the mine. Now, I am told -- whether it is true or not -- by the representatives who presented a brief here the other day, they were denied access to the property, they were forbidden the rights to the property, and it just does not follow.

I can recall in the Legislature last spring where I did my best, along with some others, to set aside for a time some legislation having to do with mining services which I thought were very discriminatory and unfair, and I have a feeling that some of the attitudes of some of the mining companies are equally discriminatory. I think there is a position being taken -- there is one side of the picture and no other. I think the proposition that a man should be obstructed in every way possible, Canadian citizens who desire to associate themselves with a union -- I do not think that is any demonstration of good faith at all.

MR. STOVEL: If these allegations can be proved, I think the present Act covers it.

MR. WREN: Correct me if I am wrong, but in my opinion the interpretation of our legal counsel the other day is that any property owner, any person having proprietary rights over any given

piece of ground had the right to exercise the law of trespass if he wanted to. If he wanted to deny anybody access he could do so; is that right?

MR. WALSH: That is right.

MR. WREN: I think the mining companies under the law are entitled to deny access, but is it good policy to do so?

THE CHAIRMAN: Do you know of any instance in your association where this has been done, where access has been denied?

MR. STOVEL: I do not, no.

MR. BEATTIE: I think, Mr. Chairman, that probably one answer -- a partial answer to the question -- is that most of the mining operations have union-represented employees. There is an occasional one that has not, I know, but by and large the majority of them do.

MR. WREN: For instance, they told us in the Committee the other day that the International Nickel Company, which is one of the great corporations in the world -- they claimed they have had great difficulty with International Nickel in going on their property and conducting normal union business in a normal manner. They have their differences in bargaining, but they were quite happy with it. I was wondering why a corporation of that size would do that.

MR. BEATTIE: I suppose it is still a

free country.

THE CHAIRMAN: In any event, you gentlemen say you do not know of instances where that has occurred with members of your Association, where access has been denied?

MR. STOVEL: I made the statement, and I do not know of any.

MR. CRAYSTON: The only one I might know of is one of the mines in our district have a fence completely around their property. I do not know of instances where the unions were not allowed in, but there is a fence around one property.

THE CHAIRMAN: Shall we proceed to page 2?

MR. JACKSON: Perhaps I could ask you, on the top of page 2, paragraph 2, you state here that the employer has the right to manage the business efficiently, and so on. In your opinion, is one of the reasons for stopping or, let us say, rather than stopping being reluctant to accept on behalf of management,a reason that you might be frightened or afraid of losing managerial rights as the result of a union coming in?

MR. BEATTIE: Mr. Chairman, the tendency I think often has been for unions to endeavour to usurp probably more rights than management frequently feels is justified.

MR. JACKSON: Well, if in the wisdom of

the Legislature rights were given to management as is presently in the Act protecting management rights, do you think then that management and unions would feel much freer to enter into collective agreements? Have you any thoughts on that?

MR. STOVEL: I agree with that indeed, if management were protected in some of the illegal practices of unions, illegal strikes ---

MR. JACKSON: You think unions would be accepted ---

MR. STOVEL: It would be far easier to deal with them on an equal footing. The present legislation was put into effect when unions were small and struggling for power and it has aided them in their status which they presently hold in our economy. I think that management feels it is time conditions were made more even between management and unions, that the need for special privileges that unions have enjoyed in the past has long since gone.

MR. MacDONALD: You are expounding the same views as Mr. Lewis, where he says the unions have been basking under a green bay tree and some of the privileges should be taken away.

MR. STOVEL: I do not get nearly as eloquent as that, but it is not too far from what I mean.

THE CHAIRMAN: It is now one o'clock and we shall reconvene at two o'clock sharp.

---The Committee adjourned at 1.00 p.m. to resume at 2.00 p.m.

(Page 1400 follows)

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The hearing resumed at 2.00 p.m.

THE CHAIRMAN: Gentlemen, it is now 2 o'clock. At adjournment time we were on page 2.

MR. MYERS: On page 2 you spoke as examples illustrative of abusive power by unions, of illegal strikes, strikes not authorized by the employees, flouting of picketing laws, violence on picket lines, or elsewhere and support of a political party without the consent of each dues paying member. Could you give us examples of those?

MR. STOVEL: Well, we might as well stick to illegal strikes. In the mining industry in 1952-53, there was a lot of strikes in the gold mining area of Porcupine, illegal strikes were at Hallnor, Delnite, MacIntyre and I believe, Broulan. There were other strikes at the time, but I don't recall whether those were illegal or otherwise.

The mines at that time, the picketing lines were completely ignored and mass picketing which resulted in the companies having to obtain injunctions prohibiting the mass picketing. There was much violence on picketing lines, and elsewhere during that period of strikes. There was attempted arson at one of the head frames of one of the mines. In a gun battle

which took place shortly after that, a policeman was shot at and hit. There was kidnapping of the working employees; squads of men were picked up on the highway, cars armed with black pepper and blackjacks and such things.

As I recall it, there were 12 convictions in the courts against leaders and officials of the unions involved -- unions or locals involved.

MR. MYERS: I suppose the mine suffered financial loss, did it?

MR. STOVEL: Obviously production was halted. There are other expenses that are continuing, whether the mine is in operation or not.

MR. MYERS: Had you any recourse against anyone?

MR. STOVEL: It is impossible to sue a union. It is not incorporated.

MR. MORNINGSTAR: Where a union is incorporated, can it be sued?

MR. STOVEL: It would be in the same position as the company is in. You could sue the union, yes.

MR. MacDONALD: Mr. Chairman, can I revert to the top of page 2 for a moment? In part four which you have listed there, are

you in effect saying that the Labour Relations Act should specifically forbid a union to negotiate in what you would describe as these extra curricular activities of education, welfare, support of political organizations of their choice and so on?

MR. BEATTIE: Labour legislation as it applies to unions, yes.

MR. MacDONALD: That they should be specifically forbidden to do this?

MR. BEATTIE: No. That is not what we said. We said labour legislation, as it applies to a trade union, should be limited to the activity of the trade union in acting as an agent of employees, at their request, in negotiating a collective agreement with their employer.

MR. MacDONALD: Is it now so limited to those activities, as a trade union for collective bargaining? I am not aware of it.

MR. BEATTIE: I think, generally speaking, yes, and we say that is the way it ought to be.

MR. MacDONALD: Oh, I see. I am sorry. Going down lower in the check-off section there, the last sentence in paragraph 1:

"Howev

"However, with unions becoming "larger and stronger and their executives "frequently assuming more power, the "members' dues in some unions, have been "used for purposes not conducive to the "welfare of the member or the public "good."

Now, the thing I cannot quite make up in my mind from reading this, are you opposed to the check-off as such, or are you opposed because you believe the check-off moneys might be used for purposes which you describe as "not conducive to the welfare of the members"?

MR. STOVEL: We are opposed to the check-off as such, for reasons which we have stated in the brief, partly on page 2 and partly on page 3.

MR. MacDONALD: Well, would you not agree that it is the right of the union to use its own moneys, whether they get it through the check-off or collect it themselves, as they see fit?

MR. STOVEL: If they collect it voluntarily -- if it is voluntarily paid to a union, yes, then it is their property.

MR. MacDONALD: But you think if they use it for education, for welfare purposes or for political purposes, that that is not

using it in the interest of the members and in the public welfare?

MR. STOVEL: We don't say that at all. We are talking about check-off of dues.

MR. MacDONALD: That is right.

MR. STOVEL: Not dues voluntarily paid for. You can belong to any club, lodge or anything else, and if you want to continue to be a dues paying member, presumably, then, the members approve of the actions of the governing body that spends their funds.

MR. MacDONALD: In the union?

MR. STOVEL: Well, anything -- in the union or anywhere else.

MR. MacDONALD: Well, why, then, would there be any objection to them using it?

MR. STOVEL: We are only objecting to it being used when it is collected as check-off dues.

MR. MacDONALD: Well, let us pursue this point a bit more, then. In the next paragraph, for example:

"Examples illustrative of this "are the use of illegal strikes, strikes "not adequately authorized by the employees, "flouting of picketting laws, violence on "picket lines or elsewhere and support of "a political party without the consent

"of each dues paying member."

I suppose they have a normal democratic process of arriving at which political party they will support?

THE CHAIRMAN: The members don't usually appeal to violence.

MR. MacDONALD: Mr. Chairman, I am asking the questions. Can I pursue it?

THE CHAIRMAN: Is that a question? I thought it was an observation.

MR. STOVEL: Mr. Chairman, could I have the question put again?

THE CHAIRMAN: Very happy to.

MR. MacDONALD: Where is the objection to a union deciding that they are going to support a political party when it is by the normal process of the majority vote of the union?

MR. REAUME: In the union?

MR. MacDONALD: In the union, right.

MR. REAUME: And this being all the unions.

MR. MacDONALD: That is what we normally decide.

THE CHAIRMAN: Does Mr. Millard say we should not do that any more?

MR. MacDONALD: No, he does not.

MR. BEATTIE: Mr. Chairman, if I may be permitted to answer that ...

THE CHAIRMAN: Yes?

MR. BEATTIE: I think in the experience of all of us, we do know that members of unions are not all of one political party.

MR. MacDONALD: That is right.

MR. BEATTIE: And when it comes to, say, the union as such providing funds, for the support of a particular political party, then it would only seem proper that they obtain the consent of every dues-paying member, that a proportion of the money so supplied should go to that particular party.

MR. MacDONALD: I think you will find in most unions that that is the case, Mr. Beattie. If anyone wants to contract out from a contribution, they can so contract out.

MR. BEATTIE: That may be. I have known of instances where apparently that was done.

MR. MacDONALD: Your main point is that you should have the consent of every member. Well, I would like to put the shoe on the other foot. For example, when the mining company makes a contribution to a particular

party, do you get the permission of the shareholders?

MR. BEATTIE: I am not aware that that is done.

MR. MacDONALD: I think you are right there.

MR. BEATTIE: The other point probably, too, is, that maybe contributions are made to more than one party?

MR. MacDONALD: Well, as Blair Fraser once delightfully put it, you pay to the government in power as much as is necessary, and you pay it to the other ones just to sort of take out insurance in case they get in.

THE CHAIRMAN: A very interesting observation.

MR. WREN: Mr. Chairman, Mr. MacDonald in the legislature made quite a point in suggesting that any member who had an interest, where there are any financial returns that might evolve on a member or company or group which is interested, he should express no expression and have no vote on it.

MR. MacDONALD: I am sorry, I can't hear you.

MR. WREN: Mr. MacDonald's remarks With reference to the using of union money

directly or indirectly is inconsistent with his own policy in legislature.

MR. MacDONALD: Everyone knows when a union makes political contributions it makes it in individual small amounts, and collectively the sum is still small; but conceivably, that will change, but it is a policy which is an adopted policy in the convention.

THE CHAIRMAN: Gentlemen, shall we stick to the Labour Relations Act?

MR. MacDONALD: Well, Mr. Chairman, we are dealing with the brief here, and the brief deals with union activities.

THE CHAIRMAN: I am trying to save the C.C.F. party from some embarrassing inconsistencies, Mr. MacDonald.

Is there anything else, gentlemen, on this?

MR. JACKSON: As I understand it now, Mr. Chairman, the check-off is a question before the bargaining table -- right?

You are merely putting this idea forward to express your views to any members of this committee who feel that it should become part of the Act; is that correct?

MR. BEATTIE: That is correct.

MR. MacDONALD: Mr. Chairman, one more question on this business of the check-off.

The original statement of the goals as set forth in this brief are, the goal of sound labour relations must be peace, goodwill and so on, and industrial relations.

Now, the vast majority of companies today have agreed to the check-off, presumably because they think it is a contribution to peace and goodwill and industrial relations.

What is there different in the experience of mining companies that lead you to be so adamant on this point?

MR. STOVEL: I don't know that all companies which have given the check-off now agree that it has added to peaceful understanding with the unions concerned. I know some manufacturing companies that saw the error of their ways and have since withdrawn it.

MR. MacDONALD: Withdrawn the check-off?

MR. STOVEL: Yes.

MR. MacDONALD: Where?

MR. STOVEL: Canada Wire and Cable, Toronto.

MR. MacDONALD: That is a subsidiary of Noranda, is it not?

MR. STOVEL: Yes.

MR. MacDONALD: I suspect there may have been pressure --

THE CHAIRMAN: Now, we don't want any suspicions, please. Your suspicions are always very interesting, Mr. MacDonald, but not too relevant to the issue.

MR. JACKSON: Are you in favour of leaving check-off to the bargaining table?

MR. STOVEL: Yes. We have said so in our brief.

THE CHAIRMAN: Shall we proceed, gentlemen? Anything else on page 2? Page 3.

MR. WREN: Are you suggesting here it would be a catastrophe if the C.C.F. party were to be elected to office?

MR. MacDONALD: I think you might as well rule on that, Mr. Chairman.

THE CHAIRMAN: That question is out of order.

MR. MacDONALD: Let us keep this without any discrimination in rulings, now.

THE CHAIRMAN: There will be no discrimination in rulings in the question and answers themselves, surely.

Proceed, gentlemen.

MR. MacDONALD: Mr. Chairman, at the top of page 3 there is the suggestion that you have got to have presumably a withholding of check-off because these union funds may be abused.

Now, once again, the thing that puzzles me, is, for example, I can recall a year or so ago a bank clerk who abused bank funds and he disappeared for quite some time, and I think he was subsequently found and dealt with in the normal course of the law.

THE CHAIRMAN: Is that that 18-year old boy?

MR. MacDONALD: Yes. I can think of an instance where an officer in a credit union made some misuse of funds in the gold mining area.

I mean, why is it necessary there should be any more particular restriction placed on the potential or possible abusive use of funds in their unions than in any other organization? I mean, we now have laws to deal with abusive funds.

MR. STOVEL: Mr. Chairman, we are not talking of the abuse of union funds that are voluntarily paid by the union down to its members. We are talking about funds collected by the check-off, which a man signs a card for a check-off, and once that is signed, it is rarely, if ever, revoked.

MR. MacDONALD: You are in effect saying, for example, that if a man signs a card, that this is not voluntary. If that be true,

that a man signs a card and says that he wants to join a union and these cards are before the Labour Relations Board, then it is not a genuinely voluntary act, and therefore, the whole basis for the establishment of the Labour Relations Act is a coercion.

MR. WREN: Well now, that is not --

MR. MacDONALD: I say, basically if a group of workers want to sign a card for a check-off, it is not necessarily an involuntary act. Let me take the Chairman's suggestion of yesterday that -- well, we will assume that 99 per cent of the people are honest, or in 99 per cent of the cases it is a voluntary act, but you apparently work under the assurance that even though they sign these cards, it is so open to abuse that you won't entertain this proposition.

THE CHAIRMAN: No, he did not say that. He said if there is a check-off system entered into at the bargaining table, they might fight it. He says it should not be made compulsory, in effect. He has not said anything about it at all, Mr. MacDonald, in any part of this brief.

MR. MacDONALD: He is objecting just as strongly to a voluntary revocable check-off at the bottom of page 3 as he is to a compulsory

check-off; therefore, he is opposed to any check-offs, voluntary or otherwise.

THE CHAIRMAN: That is, if the voluntary revocable check-off is made mandatory. That is what they are sort of looking forward to. If it is, I don't think that should ever happen.

MR. MacDONALD: A voluntary revocable check-off means just what it says. It means any employee can voluntarily say his dues should not be collected in that fashion.

MR. STOVEL: Mr. Chairman, may I ask a question?

THE CHAIRMAN: Yes, certainly.

MR. STOVEL: Mr. Chairman, one of our subsidiary companies had the voluntary revocable check-off for a period of nearly 10 years. During that entire period, not one revocation of dues was made. We have had employees come and say they wanted to stop, but there was such pressure on them that they never actually withdrew their authority.

THE CHAIRMAN: And it is in that sense that you object to this?

MR. STOVEL: Yes.

MR. JACKSON: Mr. Chairman, can an employee not change his mind when it comes to a check-off after he has signed a

card at any time in the future?

MR. STOVEL: May I answer that question?

THE CHAIRMAN: Yes.

MR. STOVEL: Usually the collective bargain agreement provides for the collection of dues for the entire life of the agreement, or for the life of the agreement with an escape period of 30 days or some such period.

THE CHAIRMAN: Anything else, gentlemen, on page 3? Page 4. Right to Work. Nothing arising out of that? Page 4, Certification at New Mines.

MR. MYERS: Let me go back to the right to work. Have you had any cases where a man objected to joining the union because of religious feelings?

MR. STOVEL: Are you directing the question to me?

MR. MYERS: Yes, sir.

MR. STOVEL: No, sir. I have not.

THE CHAIRMAN: Certification at New Mines. Your point here is that in your view, there should be no certification granted until the mine has entered production?

MR. REAUME: Well, the only thing about that, if we are to follow that part of it, we would not organize a building until after the building was built. For instance, in the trades in the building of a huge building

or any kind of building, those people building the building, such as carpenters, bricklayers and plumbers are organized while the building is being built.

Now, what reason should there be for not organizing the mines while the mines are being built?

MR. BEATTIE: Mr. Chairman, the custom in these last few years has largely been that a mining company obtains mining ground, and the work that goes on towards proving it is surely done by outside contractors. If they decide to go ahead with it, probably sink a shaft and so on, that will be done by an outside firm.

Now, we have not said anything here about whether or not the employees of these contractors shall or shall not be members of unions. We have not said anything about that.

THE CHAIRMAN: No, no.

MR. BEATTIE: The company has not anything to do with that. But during this time, and I think pretty much until the company has entered production and has got their own mining crews, their own process crews and surface crews and so on -- up until that time, usually they have had only a handful

of people, and it is only when they enter production that they hire the complete operating complement of men, and it is that group of men that then are a suitable unit for organizing purposes.

MR. REAUME: I can interject one thing here, wouldn't you put it in the same spot as a small firm just starting off? Let us say there are five people working for it, or eight or nine, whatever it happens to be, so that a certain union gets an agreement with that firm. Now, as you say, that as that firm grows and expands and gets bigger and more people are on the job, that they should wait until that time before you enter into any agreement with these people?

MR. STOVELL: Mr. Chairman, I would like to reply to that question. I don't think it is quite the same thing. A mining company has a big construction programme on the first of the year. It knows that by the following April or in some 15 months' time, it will be in production at 3,000 tons a day which will require a work force of 1,200 to 1,500 men.

MR. REAUME: Yes.

MR. STOVELL: At the beginning of the 15-month period it has only five men.

I don't think that the desires of the five men or any one particular unit should be binding on a very, very much larger crew that will be employed 15 months from then.

MR. REAUME: Yes. But when you get this large crew, if these people do not want this bargaining agent, they can get them out at the end of the 10 months?

MR. BEATTIE: There is another point there, Mr. Chairman. Probably we may not have pointed it out to you yet. We are not suggesting that where you have a mine, we will say, that contemplates entering production, handling a thousand tons a day, but they have, we will say -- we will say, for instance, that they have plans to increase that production to 5,000 tons within some reasonable time, we are not suggesting that the employees on the payroll handling that 5,000 tons are not a proper unit. We are not suggesting that. But we are suggesting that matters having to do with certification be withheld until that mine enters production, not while they are in the development stage.

Now, with respect to a good number of instances of mines entering production of tonnages around 3,000 tons a day, that will be probably about the maximum which they will

operate at for a good number of years, but up until they reach that point, they have only had a handful of men.

MR. REAUME: Yes.

MR. BEATTIE: Probably often less than a hundred, but when they got into production, there might be a thousand or 1,500 men.

MR. REAUME: Yes.

MR. BEATTIE: But that production force will be higher in a relatively short period of time. It just does not come on gradually.

MR. REAUME: Your argument is good and I accept it. Then, if that mine after it has been in operation for a year or two, if they want to expand it and go up to, say, 4,000, 5,000, 8,000 tons a day, then you should have to organize all over again.

MR. BEATTIE: Well, of course, those things usually take place in the regular manner, and the employees would have the right then yearly to decide what they are going to do.

THE CHAIRMAN: That is what you in effect say -- until the mine is actually producing there should be no certification, whether you are doing 5,000 tons or a 1,000 tons or 10,000 tons?

MR. BEATTIE: Yes. Under these

conditions where the development work is done by other people.

MR. MacDONALD: Well, Mr. Chairman, in some instances before the Labour Relations Board, the taking of a vote is postponed until there is a more representative working force on the job, and this is done at the discretion of the Labour Relations Board. I mean, they decide when is the appropriate time. Would you not be willing to leave, in any questionable stage whether it is still the development period or whether you have got adequately into production to merit certification -- can this not safely be left with the Labour Relations Board for a decision whether it is fair to have a vote or not?

MR. BEATTIE: Mr. Chairman, I think that that could well be done. The only thing we are pointing out is our opinion about this thing.

MR. WREN: In the annual report of the International Union of Mine, Mill and Smelter Workers, dated February 25th, 1957. they point out that in Newfoundland the Labour Board will not accept an application for certification until the mine is in full production.

Do you know of any other jurisdictions in Canada that have that same stipulation?

MR. STOVEL: I am not aware of it.

MR. MacDONALD: What percentage of the potential capacity is regarded as being the margin beyond which you are in production and out of development?

MR. STOVEL: The Income Tax Act view 60 per cent as normal production.

MR. MacDONALD: You see, the danger that arises here is there may be a prolonged period as you are merging from development into production, and in that prolonged period you are prolonging certification of the employees, and to prolong certification is to deprive the right to the workers to form a union.

MR. WREN: But the point is, it is pretty difficult to certify a company that is still in the process of development, and therefore, you to have to wait until it gets into production.

MR. MacDONALD: Well, all of our discussions so far -- how prevalent it is, I don't know -- but it has been drawn to my attention of attempts being made to organize the unions in mining companies which have their own construction crews, and then they discover that just about the time that the vote was going to be taken or the matter was going to be taken to the Board that the men suddenly

disappeared; they had nobody on the payroll at all. It was handed over to one or another construction company. I repeat, I don't know how prevalent that is.

MR. STOVELL: Mr. Chairman, the point under discussion is that no certification should be made until the mining property is in production. The question as to what we mean production is is not necessarily -- or your recommendation is not necessarily what the Income Tax people might consider, and once you have started producing ore and marketing it, if you are operating a mill or smelter or whatever it is, then the Board would decide when the property is in production.

THE CHAIRMAN: Assuming that there is nothing further on the brief, gentlemen, would you now turn to the Supplement to the Brief?

MR. JACKSON: Can I bring up a question here, Mr. Chairman?

THE CHAIRMAN: Yes.

MR. JACKSON: The Mine, Mill and Smelter Union brought up the question when I asked if they had any objection to a union being incorporated -- they brought up the point that it was absolutely unfair to try and incorporate a voluntary organization, and

they went on from there to use various examples. Assuming, of course, that this is a voluntary organization, can you give any answer to that theory or that principle?

MR. BEATTIE: Well, Mr. Chairman, I think that our general opinion is that they should have some legal status given to them somehow, and just how it should be done, probably we are not in the best position to suggest.

We say there, it would seem desirable that unions should be licensed or incorporated. Under the Trade Unions Act of the Federal Government, there is a provision there where unions can be licensed and meet with certain requirements. Now, whether that is what might be desirable or not, I don't know.

THE CHAIRMAN: Does that licensing give them a legal entity?

MR. BEATTIE: Not entirely, no. They are required to divulge certain information as to their office or change of offices, by-laws, constitution, membership fees, initiation fees and various things such as that.

MR. JACKSON: How would you rightfully do that to a voluntary organization? If you belong to a lodge or you belong to some other group that is some voluntary organization, what right has anybody to effect their by-laws,

effect the constitution as drawn together -- what right has anybody to do that?

MR. BEATTIE: We have come to know unions as, we will say, voluntary associations, placing them in the same categories, probably, as these other voluntary organizations we have known. Probably they should never have been in there.

MR. MacDONALD: Mr. Chairman, if we are on page one of the Supplementary Brief, I think there is one point that should be made. It is not only with reference to this brief here, but with reference to some others, and that is the attempt to sort of apply what is happening in the United States as having some general application to the whole of Canada. I mean, this paragraph 2, "The reason we make this further request is the disclosures of the McClellan Committee of the U.S. Congress. . ."

THE CHAIRMAN: "By some unions operating in Canada." It says some unions, not all.

MR. MacDONALD: And they say, "The continued disregard for law and order by some unions operating in Canada."

THE CHAIRMAN: Yes.

MR. MacDONALD: My point is this: If some unions are operating illegally, there are legal steps that can be taken so that that

situation can be coped with.

The point I want to make is this: Although there is a suggestion that that has been the case in the United States about the racketeering in trade unions, and they have given conclusive proof of it, there is no suggestion that that kind of racketeering is occurring in Canadian unions.

THE CHAIRMAN: Well, he names one.

MR. STOVEL: We have already named one.

MR. MacDONALD: That is a specific instance of one man.

MR. STOVEL: And there are other individual cases which I will admit do not add too much, but we made certain recommendations so that the conditions that do exist in the States cannot exist in Canadian unions.

MR. MacDONALD: Well, take the one instance that you cite here, the man who allegedly has gone off with $150,000 worth of funds or something. There are legal means to cope with that, and these means are undoubtedly going to be resorted to. What more is required?

THE CHAIRMAN: The only legal means, I suppose, if he got away with $150,000 is to prosecute him and put him in jail, but that does not get back the $150,000.

MR. MacDONALD: What more restrictions are required? What are you seeking in addition to what now exists?

MR. STOVEL: You pointed out that we have chosen one illegal matter. . .

MR. MacDONALD: Yes?

MR. STOVEL: Or one case. From last night's Telegram, on page 2, "Union officer rigged books court told" talking about the union in Peterborough. We submit that these two incidents which have drawn public attention today are by no means isolated. Scarcely a week goes by that you don't find some things irregular or illegal in the conduct of union affairs.

MR. MacDONALD: In the use of funds, you mean?

MR. STOVEL: Not necessarily in the use of funds. I said irregular or illegal. You have illegal strikes across the country.

MR. MacDONALD: I thought that was pretty close to slander of the trade union movement.

THE CHAIRMAN: No, no. Don't let us be champions of something of which we are all champions, the trade union movement. Nobody is slandering anybody here.

MR. MacDONALD: There is a growing tendency which is indicated in this brief of trying to apply what is going on in the United States and showing its general application throughout Canada, and that simply is not the case.

THE CHAIRMAN: What these gentlemen are very anxious to do is to see that something is done to prevent such things.

MR. MacDONALD: These gentlemen are anxious to get rid of unions.

THE CHAIRMAN: Mr. MacDonald, you are entitled to your opinion, and we respect it for what it is worth, but nevertheless these are intelligent men and I think we should treat them as being intelligent men.

MR. ROWNTREE: I don't think it is the purpose of this Committee nor our position to make criticism of people who are taking their time, either labour or management time, to come before this committee. I am delighted you have come, gentlemen, speaking for myself.

THE CHAIRMAN: Is there anything else you care to discuss, Mr. MacDonald, on this Supplementary Brief?

MR. MacDONALD: What page?

THE CHAIRMAN: Page one.

MR. MacDONALD: I have nothing more on page one.

THE CHAIRMAN: What about page two?

MR. MacDONALD: No, Mr. Chairman.

THE CHAIRMAN: Anybody else?

MR. ROWNTREE: In making these recommendations, bringing them under some degree of responsibility -- that is the general tenor of your proposals -- would require that the books be regularly audited and the financial statements filed with the Department of Labour.

MR. STOVEL: I think that would be highly desirable.

MR. MacDONALD: That now exists in most cases. It is part of the union by-laws -- constitution.

MR. ROWNTREE: That it is filed with the Department of Labour?

MR. MacDONALD: Not filed with the department.

MR. ROWNTREE: Or made available and distributed to each member of the union?

MR. MacDONALD: They are in most instances already, within the union.

MR. ROWNTREE: Mr. MacDonald, would you please understand that some of us know a little bit about the trade union movement, and

many of them are our friends and some of them are my personal friends. It is not the great majority we are concerned about, we are after the few just like you are after the few.

MR. MacDONALD: Presumably my going after them is legitimate, just as yours is now.

THE CHAIRMAN: Gentlemen, let us proceed, please.

MR. ROWNTREE: Just one other observation. You spoke about illegal strikes. Would you include in that phrase "illegal" work stoppages?

MR. STOVEL: That was our intention, sir, yes, to include illegal stoppages as well as strikes.

THE CHAIRMAN: Thank you very much, gentlemen. We appreciate your taking time to come here. Your brief has been very enlightening, and I know that all of the members of the Committee, and I say all advisedly, appreciate very much the brief that you have presented. We will give it our very serious consideration.

MR. STOVEL: Mr. Chairman, I would like to thank you and the other Members of the Select Committee for hearing the brief, and we hope that the thought we have left with you will be of some benefit in your deliberations.

THE CHAIRMAN: Thank you very much.

Now, our agenda for tomorrow, Mr. Perkins, is, I understand, we are to meet at 11.00 o'clock on Thursday, and we are to hear from the Canadian Automobile Chamber of Commerce and the Canadian Independent Labour Association.

THE SECRETARY: Yes, sir.

--- The hearing adjourned at 2.40 p.m. to resume on Thursday, October 10th, 1957, at 11.00 a.m.

(Page 1430 follows)

LEGISLATIVE ASSEMBLY OF ONTARIO

SELECT COMMITTEE ON LABOUR RELATIONS

Committee Room No. 1, Parliament Buildings,
Queen's Park, Toronto, Ontario

Thursday,
October 10, 1957

JAMES A MALONEY	Chairman
HAROLD PERKINS	Secretary
GEORGE T. WALSH,Q.C.	Committee Counsel

MEMBERS:

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Ellis P. Morningstar
Raymond M. Myers
Arthur J. Reaume
H. Leslie Rowntree
J. W. Spooner
Albert Wren
John Yaremko
Robert Macaulay

APPEARANCES:

Mr. J. B. Metzler Deputy Minister of Labour

CANADIAN AUTOMOBILE CHAMBER OF COMMERCE

Mr. E. M. Dillon
Mr. J. G. Dykes
Mr. C. M. Bell

ALL CANADIAN INDEPENDENT LABOUR ASSOCIATIONS AND UNIONS

Mr. E. Smith
Mr. E. Demeresq
Mr. R. Ellis

THE CHAIRMAN: Gentlemen, it is now eleven o'clock.

The first brief to be presented in the form of a submission to this Committee is from the Canadian Automobile Chamber of Commerce, represented here this morning by Mr. E. M. Dillon, Mr. J. G. Dykes and Mr. C. M. Bell.

Who will be presenting the submission, gentlemen?

MR. DILLON: I will be presenting it, Mr. Chairman.

THE CHAIRMAN: Would you care to proceed now?

MR. DILLON: Thank you.

Perhaps I should preface the reading of this brief with the statement that it represents the views of the member companies of my client, and only such views as they thought proper to bring to the Board, and it has no bearing, as such, on any other matter other than what is in it that you gentlemen will have to deliberate upon.

---(Mr. Dillon proceeded to read the brief.)

THE CHAIRMAN: Thank you very much, Mr. Dillon.

Now, gentlemen, we will proceed to deal with this submission in the same manner as we have dealt with the previous ones, and I would now ask if

there are any questions from members of the Committee to be directed to the representatives of the Canadian Automobile Chamber of Commerce.

Is there any question arising out of page one of this submission?

MR. REAUME: I want to ask one question, Mr. Chairman. Mr. Dillon, you don't have in here any of the feeder plants of the companies you mention.

MR. DILLON: No.

MR. REAUME: Well, are you acting for them in any way?

MR. DILLON: No, in no way.

MR. REAUME: Just for the parent companies -- the main companies?

MR. DILLON: Not even for them, in this sense, that I am acting for an association of what you have called the parent companies; and, of course, that being so, it would, I think, be apparent that these matters that I have discussed here are those upon which the members of my client association have some degree of unanimity.

MR. REAUME: I was just wondering why the feeder plants wouldn't be part of your group as well,

MR. DILLON: I couldn't answer that question. I don't know anything about the constitution of the Canadian Automobile Chamber of Commerce.

MR. REAUME: It relates only to people who build and manufacture automobiles?

MR. DILLON: Yes.

MR. REAUME: Well, the feeder plants, of course, are making certain parts of automobiles?

MR. DILLON: Yes.

MR. REAUME: And the people you represent are those who build the finished product; is that right?

MR. DILLON: Yes.

MR. REAUME: That is correct?

MR. DILLON: Yes.

THE CHAIRMAN: You wanted to say something, Mr. Perkins?

THE SECRETARY: Yes. The Automobile Parts will be part of a separate brief.

THE CHAIRMAN: Thank you.

Is there anything else on page 1? Page 2?

MR. REAUME: Mr. Dillon, on page 2, the third paragraph, you speak there of equal rights for both employees and employers.

MR. DILLON: Which paragraph?

MR. REAUME: Paragraph 3, on page 2.

MR. DILLON: Yes.

MR. REAUME: You speak of equal rights. I was just wondering if, prior to the insertion of Section 47 in the Act, which occurred in 1950, were there equal rights prior to that time? I am wondering if the section was a hindrance to proper dealings between unions and management -- whether the insertion of section 47 was a hindrance -- a hurt?

MR. DILLON: I don't think so. It is our view, and we have it in our brief, that -- is it section 47?

MR. REAUME: Yes, it is section 47.

MR. DILLON: We have it in our brief that it should be retained, if I am not mistaken.

MR. REAUME: The reason I mention that is that prior to the insertion of Section 47 in the Act, and for quite some time prior to that, companies had the right of going around their plant and making speeches against the unions and pointing out the reasons as to why the employees shouldn't join the union; and they could hold parties in private halls and advertise the fact that they didn't want the unions; and almost all of the union members who were interested in the unions would go to these parties, and, in the eventual outcome of the vote, they would still vote in favour of the advent of unions.

So I would think that prior to the insertion of Section 47 in the Act everybody was free to organize against or for, and it was as applicable to the companies as it was to the unions, and anybody could go out and do anything they wanted to in the way of organizing a union. So that these equal rights were enjoyed by both parties concerned. If we went back to the old days again I would be inclined to bet that the very same things would happen all over again.

MR. DILLON: I would just like to talk about it for a minute.

MR. REAUME: Yes.

MR. DILLON: In the first place, if you examine section 47 carefully you will see that what it does is that it says what employers may not do. It is a prohibitive, negative section.

MR. REAUME: That is right.

MR. DILLON: And we have said in our brief that we want to retain that.

What we do want is an affirmative statement in it as to what an employer can do. That is the gravamen of what we are saying, that we are perfectly content to be prohibited from refusing to employ, or to impose, the conditions, or anything that Section 47 says . . .

MR. REAUME: Yes.

MR. DILLON: . . . but we want the Act to say what we can do.

MR. REAUME: That is the very point I was on; if I can go along with you. Prior to the insertion of Section 47 in the Act you could do almost anything.

MR. DILLON: I don't think I could agree with that statement, Mr. Reaume, entirely.

MR. REAUME: No?

MR. MYERS: You could do all the things you are not prohibited from doing.

MR. DILLON: Maybe we can; but if we do we run the risk of a possible charge of unfair practice.

MR. REAUME: You would want a section -- an additional section -- that these things will not constitute a violation of subsections (a),(b) and (c)?

MR. DILLON: That is one way of saying it.

You will see that we deal with this particular matter on page 5.

MR. MYERS: I wish you would draft what you think would be suitable.

MR. DILLON: Well, I don't know -- I presume that I could -- but I don't know that I am an expert draftsman.

MR. MYERS: I think it would be very helpful.

MR. DILLON: We have set forth the principles on page 5, in the second paragraph. I will read it again:

> ". . . As long as any communi-
> "cation from the employer to his
> "employees is factual . . ."

In other words, that it is the truth -- it isn't something that is debatable --

> ". . . and contains no threats,
> "the employer should be free to
> "state his position . . ."

For instance, I think an employer should have the right to say: "I don't want to have a union."

MR. MYERS: He can do that.

MR. DILLON: Not unless he wants to have a charge of "unfair practice" made against him.

MR. MYERS: Do you know of cases where an employer has been penalized because he did say he didn't want a union?

MR. DILLON: I have known of cases where, on an application for certification, that was used in an effort to get certification without a vote.

MR. MYERS: Was it used successfully? What you are saying now is important -- extremely important. Supposing we go to the Legislature and some of us say the things that you are saying, how could we convince the Legislature that employers haven't got the right to do things -- lawful things -- which they are not prohibited from doing by the statute?

MR. DILLON: Well, Mr. Myers, we are not saying that they haven't got the right, but we are saying that the right is not clearly defined, and that, in view of the punitive sections of the Act, the employer feels that he shouldn't do it because he doesn't want to be accused of "unfair practice."

That is all we are trying to remedy.

MR. MYERS: I would be awfully interested if you could draft something on that.

MR. REAUME: I think your point is well taken, but what I am saying is this, that, prior to the insertion of clause 47 into the Act, which occurred in 1950, the employer could go out on the back end of a truck, or in his plant, and call a meeting and call the union anything he wanted to call it and do anything that he wanted to do to stop people from joining the union, and yet in almost every case after these campaigns -- publishing it and handing out leaflets and that sort of thing -- when it came to the ballot they voted in favour of the union.

MR. DILLON: Yes; quite so. What is wrong with them going to the ballot? -- nothing.

MR. REAUME: No; but I am just wondering in what way it would help if we did amend the Act.

MR. DILLON: This whole area relates back to the statement in the brief -- and these are my own words -- that the effect of the legislation is to give organized labour too much bargaining power as against the bargaining power an employer has.

Suppose, for the purpose of argument, the statute said: "The employer can . . ." (a) say to his employees: "I wish that you wouldn't join the union." This may be something that shouldn't be introduced, and please don't tie me down to it, because I haven't discussed it with my client . . .

MR. REAUME: No.

MR. DILLON: . . . and (b) that he is at liberty to deny any untrue statement in the propaganda literature of the union. Let us examine that for a minute. The employer who wants to do that takes a risk. He has got to be sure that what is said is not true before he says it is not true. There is no great problem involved in that, and no great injury to organized labour in that. But as it is now, because of the sections which prohibit what he can do but do not say what he can -- and this is what we are after -- he hesitates to do so, and if by chance there are untrue statements in the propaganda then they go unchallenged.

I am not saying that the employers haven't the right to do that. Don't misunderstand me. I have known some employers who did. But we are saying that his right to do it should be clearly defined in the statute and there should not only be prohibition but there should be an affirmative statement of what he can do. I don't care how limited it is so long as the affirmation is there.

As I say, I haven't discussed with my clients what those rights might be, and the illustrations which I give you, Mr. Reaume, were my own.

MR. WREN: You did say in your brief that you would like the opportunity to set out facts during the organizational period of the union.

MR. DILLON: Yes.

MR. WREN: Now, if what you suggest is to be considered at all we have to look at it in that light.

I would think that some of the facts which might be set out in some cases by an employer might be that they did not wish their employees to join a union because of the economic impact of a union organization and anticipated increases in wages and better working conditions, which might put the company out of business, or put it in serious financial difficulty. Would the employer, in setting out these facts, be willing to do what, I think, Mr. Reuther suggested, and that is to make his books and accounts available to the union to show the state of his financial affairs so that they might review any statement of fact that was made by him about the economic impact?

MR. DILLON: Well, yes, up to a point, but I am not prepared to answer it Yes or No on behalf of my client. I haven't discussed it, and we wouldn't be able to set out here what sort of affirmative statements we would like to be able to make.

MR. WREN: That is what makes our position difficult. You are not making concrete suggestions.

In theory this might sound fine, but what it comes to is that we have to go before the

Legislature with our report and if we did consider this to be a sensible recommendation we have got about eighty-five other people we have to convince.

MR. DILLON: Would this be an adequate answer, that I will be very happy to consult my client about this matter and bring to you any specific rights which they think they should have incorporated in the section?

MR. WREN: Yes.

MR. MYERS: Yes.

MR. DILLON: If they care to do so.

MR. MYERS: I am sorry that I don't know the answers as well as I ought to, but who is the judge of the things an employer . . .

MR. DILLON: The Labour Relations Board.

MR. MYERS: And there is no appeal from that Board?

MR. DILLON: No effective appeal.

MR. MYERS: Supposing there were an appeal from the Board on certain questions, what do you think of that idea?

MR. DILLON: Well, that, again, is a matter that I haven't discussed with my clients.

MR. MYERS: I don't think the Labour Relations Board ought to have the final word at all.

MR. DILLON: Well, Mr. Myers, from a purely personal point of view one of the things

that we need in labour relations -- and I am sure my union friends will agree with this statement -- is that there should be some immediate and as-soon-as-possible finality, and when you involve appeals from the Labour Relations Board it destroys that aspect of it.

MR. MYERS: Yes.

MR. DILLON: And that is purely a personal opinion.

MR. MYERS: I know.

MR. YAREMKO: To get back to this part that we are discussing, there seems to be a wide difference between -- I am reading from the second paragraph on page 5 --

> "An employer should have a clearly
> "defined right to state his views
> "regarding establishment of a union
> "as a bargaining agent, or to call
> "attention to misleading or inaccurate statements of the organizers
> "if he so desires . . ."

There are, actually, two extremes, in my view, in what the employer should have the right to do. If he got misleading or inaccurate statements I think the validity of being able to do that may be unquestioned, but why should an employer have the right to state his views regarding the establishment of a union as a bargaining agent? Why

should he have that right?

MR. DILLON: Well, you are getting into a very philosophical area, Mr. Yaremko.

The employee is more concerned with the advent of the union than the employer . . .

MR. YAREMKO: That is the very point.

MR. DILLON: . . . but however misguided he may be -- and sometimes they are -- he should be able to say:"Well, I wish you wouldn't do it. It isn't good for me. It may be good for you, but it isn't good for me." But, on the other hand, he should also say in the same breath: "However, you do just what you like."

As long as that attitude is maintained -- the attitude of neutrality -- I see no reason why an employer shouldn't express his views.

I don't want to give you any details of how to do it, because I have no instructions about that, but on the basic philosophic principle, as long as he says to his employees: "You and your council do whatever you like" -- these are my words . . .

MR. MYERS: I agree.

MR. YAREMKO: We have established by law that every man has the right to join the union of his choice.

MR. DILLON: Are you suggesting that the employer should have the right to tell his

employee not to exercise one of his rights?

MR. DILLON: No, I wasn't. What I said was this, that . . .

MR. YAREMKO: You said previously . . .

MR. DILLON: What I said was that as long as he said to them: "However, it is your affair. You have the right to join" -- that is all right. "You do what is in your own best interests." As long as he makes that statement -- I am getting a long way away from my brief, and into details that I haven't discussed with my client -- then I say why shouldn't he be in a position to say -- and I am still going to use simple words -- "I wish you wouldn't"?

THE CHAIRMAN: You are here to represent your clients.

MR. DILLON: Yes.

THE CHAIRMAN: And while we are very interested in your personal observations which will, no doubt, be of assistance, if you feel that you don't have the authority to express these views on behalf of the people you represent, I would suggest that we possibly should defer this aspect of it until you do have definite instructions.

MR. DILLON: Nothing I have said today could upset the basic view of the people whom I represent.

THE CHAIRMAN: But you have told us on four occasions that you are speaking personally and that you haven't consulted with your clients.

MR. DILLON: Yes; I haven't discussed the details.

THE CHAIRMAN: That is the point I am getting at.

MR. DILLON: Once again, if the Committee considers that it would be helpful, I have no doubt that my clients will be prepared to express their views on the details, but obviously it wouldn't be fair for me to do so today.

THE CHAIRMAN: I appreciate that; but the problem is that you are asking us to face up to something and you don't know whether your people want us to do it or not.

MR. DILLON: Well, Mr. Chairman, I have just been informed by the Executive Officer of the Canadian Automobile Chamber of Commerce that they have no objection to anything that I have said to date, which should clear the air so far.

MR. REAUME: I don't know, Mr. Dillon, if you have some reason for it, but why are you now worrying about the organization of a union within certain plants as set out in your brief, because quite clearly the plants are in the companies for which you are acting, and if I understand it correctly they are all organized

already.

MR. DILLON: That is quite true.

MR. REAUME: Are you speaking for those who are going to follow?

MR. DILLON: Yes. We are not in a position to ask for retroactive legislation. We couldn't do that. We couldn't get it. But, nevertheless, we are entitled . . .

MR. REAUME: But everybody knows that Ford is properly organized, and Chrysler and General Motors and Studebaker-Packard -- all of them that you have there. We have gone through all that.

MR. MYERS: Well, I am very glad to have your views.

MR. JACKSON: Could I go back to page 3? On page 3 . . .

THE CHAIRMAN: We haven't dealt with page 3 yet. It was something on page 2 related to page 5.

MR. JACKSON: Oh, I see.

MR. WREN: On page 2 Mr. Dillon makes the statement, in the third paragraph:

> "The genesis of almost all labour
> "legislation was to improve the
> "bargaining position of employees..."

I take that to be a positive opinion of yours?

MR. DILLON: That is so.

MR. WREN: Do you feel that granting to

an employer some right to take some part in the deliberations, or considerations, of the employees to seek certification is going to bring about any improvement to this principle that the labour legislation was set up to improve the bargaining position of employees? Is that going to help the employees in any way -- the fact that you are going to be permitted to say certain things to them?

MR. DILLON: I will have to answer that question at length.

The statement that you have read to me is:

> "The genesis of almost all labour
> "legislation was to improve the
> "bargaining position of employees..."

That is a general statement. There was a time -- I guess before any of us in this room were concerned with labour relations -- when employees had no rights whatever -- none. The employer could do with them what he pleased. He could pay them what he wanted to. He could fire them whenever he wanted to. The employees, as such, had no rights. In every western democracy that was felt to be not for the good of the community let alone the employee, so we began to have labour legislation to improve this -- I call it the bargaining position, but it could be called the economic position, if you like -- to improve the employees' status qua his employer.

That is what labour legislation is intended to do, in my view.

What we are really saying in this brief is that that process of increasing the bargaining power on the one hand and obviously decreasing it on the other -- because that is the only place it could come from -- has gone, in the area that we are discussing, too far, and that for the good of the community as a whole certain things should be done so that in the whole field -- we have said, although it isn't possible -- the purpose of the legislation is to keep as nearly as possible equality of bargaining power; and these matters which we are discussing, in the view of my client -- and, I may add, my own -- are things that would, in some very slight measure, redress the balance of power; and if that were so it would be for the benefit of the community as a whole.

That is the philosophic basis of it.

MR. WREN: But, Mr. Dillon, in my mind an area of inconsistency creeps in in the balance of your statement, and you have just added to it by saying that you feel that in the building of this labour legislation we have reached the point where, perhaps, we have gone too far. If you feel that way why would you not say, inasmuch as you believe we have gone too far, that we should get away from these powers rather than ask that employers be given more power? Why can't

you suggest where we have gone too far and what could be done to correct it?

It appears to me -- I may be wrong -- that there might be here a certain interested group seeking to find, or establish, in labour relations, a sounding board. Now, if that is their desire why not say so? If it is your desire to establish yourself in a position of being able to speak on these matters why not say we have gone too far with labour legislation and we have gone too far with certain interests?

MR. DILLON: I think it wouldn't be correct to say, in general, that our legislation has gone too far. I wouldn't accept that.

MR. WREN: You said that.

MR. DILLON: No. I said that the effect of the legislation had created an imbalance of bargaining power that was, perhaps, too large for the good of the community. That you translated into "going too far."

Now, I am not here, except in so far as it may be involved in the matters we have discussed, to argue that any of the rights which any employees and unions have gained under our legislation should be taken away from them.

MR. WREN: That is the point I want to establish.

MR. DILLON: There may be some that should,

but I am not arguing that. I am saying that in this area of human relationship, which is so important to the community -- because, after all, we are an employee-community in the end -- employees of all kinds -- most of our citizens spend their lives working for somebody else.

MR. WREN: Tell me this. Let us assume that Windsor -- which is an automobile centre -- let us assume for the moment that it is unorganized at the present time and a certain union comes in with an organizational campaign in that area.

MR. DILLON: Yes.

MR. WREN: What is there in the present legislation to prohibit, for example, the Automobile Chamber of Commerce saying to the public: "We feel that the organization of the automobile industry in Windsor is not in the best public interest, and for the following reasons . . . And, furthermore, certain people have said these certain things which we take this opportunity to dispute . . ." Don't you have that special case?

MR. DILLON: Yes; but what we are suggesting is that they should say it directly to their employees. Saying it to the public is one thing, and saying it to the employees is another.

MR. WREN: On broad principles I might agree with you, but an employer just might sneak in the odd bit of propaganda in there.

MR. DILLON: If they did they should suffer the penalty involved in Section 47.

MR. REAUME: There isn't anything wrong in also having somebody speaking with authority for a company. You are acting in that kind of work yourself. So that in the event of a plant in Windsor, Oshawa, or any other place, being organized you can act for these people.

There is nothing in the Act to stop you putting an ad in the paper and saying: "We don't think this is a good thing."

MR. DILLON: That, I think, is quite correct.

MR. REAUME: It is done all the time.

MR. DILLON: But nobody knows where such an act, with the authority of the employer, would not lay him open to a charge of unfair labour practice.

MR. REAUME: It is being done.

THE CHAIRMAN: Has there ever been a charge as a result of such action?

MR. DILLON: Not that I know of.

MR. WREN: I can recall strikes which have taken place in other labour disputes -- some before and some not before the Labour Relations Board -- where the company went to the Board about statements in the press, and somebody had paid a pretty penny to put it in there.

MR. DILLON: We are talking about the certification period, are we?

MR. REAUME: But even so, there have been ads in the paper on behalf of the union even although it was ruled in the local, or in the council, advising employees that, in their opinion, they should not join the union for this reason or that.

MR. DILLON: All we are saying, Mr.Reaume, is that if that is so then why not change the statute to say so?

THE CHAIRMAN: Mr. Metzler, is that considered an unfair or illegal practice?

MR. METZLER: To put ads in the paper?

THE CHAIRMAN: Yes.

MR. METZLER: That is really a very difficult thing to say. Under the Labour Act if the question arises of an unfair practice -- that the employer has been guilty of an unfair practice -- that becomes a question of fact, as it were, before the Labour Relations Board when proceedings are taken.

I know this, for instance, that a strike may occur following the report of a Board of Conciliation. That is not the type of thing Mr. Dillon is talking about. But both parties will resort to the press in order to state their position.

MR. REAUME: In the event of a strike?

MR. METZLER: That has been done time and again.

THE CHAIRMAN: But there are also instances where ads have appeared in the paper during the organization of the unions in the past, and the question is has there been prosecution for that at any time?

MR. METZLER: I don't know of any case where prosecution has occurred. That would be something that I would like to ask Professor Finkelman, but unfortunately he is not at the hearing today.

I think it likely that if there was any allegation of intimidation, or unfair practice, it will arise in the course of the certification procedure and the union may put forward the position that it feels that it should be certified on the basis of no vote because it has been frustrated in its efforts.

THE CHAIRMAN: Then, the point is that obviously nobody has ever been prosecuted for that kind of thing; and there have been many instances of a union organizing in a plant and there appearing in the press ads for the union and against the union; so that in that one respect at least the employer has the same rights as the employee. There is no question about that.

MR. METZLER: The employer has a right to state his position. It depends on whether or

not it becomes an issue at the certification proceedings, or in the application for . . . Mr. Reid advises me that it has happened that there have been difficulties in this very aspect of the situation where a vote has been ordered by the Board. There is prohibition against electioneering during the seventy-two hours before the vote is taken. Both sides are supposed to cease making representations to the employees -- to the group -- for seventy-two hours before voting occurs.

MR. REAUME: That is right.

THE CHAIRMAN: Anything else on page 2? Page 3, Certification Procedure?

MR. JACKSON: Maybe Mr. Dillon would answer this for me: We have heard, before the Committee, the criticism that the conciliation procedure is lengthy and slow. You would agree with that, I assume, one hundred per cent. Your clients do not have any feeling about that?

MR. DILLON: My client would like to see it possible to do conciliation in less than the average time it takes now.

THE CHAIRMAN: You think it is too slow?

MR. DILLON: I think it is slow. I do not want to use the adverb "too". We believe in conciliation. When you say "too slow" the inference may be that we would be better without it. I don't want to accept that inference. But when you

say the procedures are slow I will agree with you, and I would like to see -- my client would like to see -- some means of speeding it up without in any way abandoning it.

THE CHAIRMAN: Would you agree with the proposition that there should be a time limit of, say, ninety days for the conciliation procedure to be effective, and if it is not effective in that time the union would have the right to strike, or the company would have the right to lock-out?

That has been suggested to us.

MR. DILLON: Well, I don't think I would want to accept the ninety days, but I would think some time limit might help to increase the speed.

MR. MacDONALD: Do you say ninety days is too long, or too short?

MR. DILLON: In general, it is too short -- the ninety days.

MR. REAUME: You think it is too short?

MR. DILLON: Yes, I do. You see, granted the efficacy of it, and the necessity, or the advisability, of the conciliation process as a process -- I can't discuss the details of it -- then the time limit should not be so short that in some cases where it might help it couldn't be used.

That is about all I could say about it.

THE CHAIRMAN: If it is agreeable to both parties that it should be extended -- I suppose, by mutual agreement -- in the event that it is agreeable to both parties it could be extended? Do you agree with the proposition that a time limit should be recommended by the Committee?

MR. DILLON: I will put it this way to you, Mr. Chairman, that I think the insertion of a time limit would help to speed it up.

THE CHAIRMAN: Yes.

MR. DILLON: But what it should be is a very difficult matter to consider, because in some cases . . .

THE CHAIRMAN: We appreciate that.

MR. DILLON: . . . ten days would be plenty.

MR. YAREMKO: Granted the necessity for conciliation -- this is not on the page, but I want to get the benefit of Mr. Dillon's experience -- but people who are appearing before the Committee are always using the words "lock-out" and "strike" as if they were equal -- that is, that they are potential economic weapons of equal force. Is that the case?

MR. DILLON: Well, it is my experience that it is not the case; but that doesn't say that if you had the necessary economic conditions in this country -- which nobody wants -- the lock-out

might not have more force than it has now. In practice they are not equal, Mr. Yaremko -- in practice; at least, they haven't been over my fifteen years' experience in this field.

MR. MYERS: I would like you to suggest a period. You think ninety days is too short. You would help very much by giving the Committee your view as to what would be a proper limit.

MR. DILLON: Well, to be quite frank, I haven't even thought about it myself -- as to what would be a proper time limit.

I may say that if at some future occasion the Committee were interested in my personal views about some of these matters, I would be very happy to do the best I can.

MR. MYERS: Yes; I am very interested in your personal views. We have no guidance.

MR. DILLON: That is all I will say; and if I were called back in order to let you know my views I would solidify them.

When you operate in this field one of the things you mustn't ever do is to get fixed views if you are going to operate successfully. You have asked me if I think it should be ninety days. That is a question I couldn't answer. I have done the best I could. I have said that we feel that, in general, conciliation procedure takes too much time and that anything that could be done

to shorten the time and still maintain the effective operation of the processes should be done. I was asked if I thought a time limit in the section would help, and I think what I said was that that might be one way of shortening the time.

MR. MacDONALD: Can we look at the top of page 3 for a moment? In your initial sentence there you say:

> "The present position and status
> "of unions under existing legis-
> "lation affords them protection
> "and immunity not enjoyed by the
> "other parties concerned . . ."

In your opinion, Mr. Dillon, what protection or immunity does a union enjoy under the present legislation that other parties haven't got? If I may spell that out for a moment, assuming that there is willingness for the existence of a union, which, presumably, is another objective of the union . . .

MR. DILLON: Quite a proper objective.

MR. MacDONALD: Yes -- and assuming that any differences of opinion on the rights and interests of the respective parties are governed by the Labour Relations Board which is a balanced Board with labour and management represented . . .

MR. DILLON: Yes; but the Labour Relations Board operates within the provisions of the statute.

MR. MacDONALD: . . . what, then, in

the statute do you think gives protection to the union but does not give equal protection to management?

MR. DILLON: Well, on the matter of certification, which we deal with at page 3, we say, in effect, that the present method of determining certification, or non-certification, gives unions advantages over management in the initial effort. This, we think, could be corrected by a secret ballot vote, the end result of that being that, whatever the wishes of the employers might be would not only be made effective but that it would be something that nobody could dispute. The fact that it happens that unions have rights in the initial certification procedure -- we don't want to take their rights away; we just want to be sure that by a secret vote the true wishes of the employees are obtained.

MR. MacDONALD: But that doesn't protect the rights of management when, presumably -- if I understand your remarks correctly -- it is directed to what might be a miscarriage of justice in terms of the wishes of the workers who might wish one union or another union or no union at all.

MR. DILLON: Yes.

MR. MacDONALD: It seems to me the only protection it would give would be to the management who wish to have no union at all.

MR. DILLON: I don't agree with you. One of the important things that any company needs to know when it becomes involved with the desire of its employees to be represented by a union -- one of the first and most important things management needs to know is that the majority of its employees truly wish this to happen.

MR. MacDONALD: Let us analyse this specific case which you have cited, and this is the next point I go to on page 4; it is the middle of that paragraph. You say:

> "Therefore, we submit it is
> "desirable that the Labour Relations
> "Act be amended to provide that,
> "before granting certification,
> " a government-supervised secret
> "vote be taken in every instance . . ."

Point 1, there is a government-supervised secret vote if there is any uncertainty of the majority that want into the union in accordance with the procedure laid down in the Act; so that so far as the government-supervised vote is concerned it is there when the Board deems it necessary to exercise it.

MR. DILLON: Yes.

MR. MacDONALD: So that your main suggestion is on this question that it must be "in every instance." But isn't that going to result,

in ninety-five out of a hundred cases, in needless expense, delay and effort?

MR. DILLON: Well, I don't think any expense is unjustified that leaves these two important parties in the position where they know that the majority of the employees either do,or do not, want to be represented by a union.

Now, the Labour Relations Board has established that procedure, and, in general, that involves the production of union membership cards and evidence of payment of money. Now, this may be controversial -- it isn't intended to be so -- but it is sometimes a very easy thing to get a card and that money due to the pressures that exist in the organizing period in almost any plant; and if this is what happens and they have the requisite percentage of union cards then certification follows. But it doesn't follow, in our submission, that, of necessity, it represents the true wishes of the employees; and we feel that a supervised vote would, in the end, represent something that nobody can dispute and about which there can't be any trouble.

I have had experience with plants where you weren't too sure whether there was 35 or 55 or any other percentage of people who belonged to the union even after certification; and that, uncertainty, we think,should be removed for the sake

of a continuing relationship -- actually, for the benefit of the union as much as for the benefit of the employer -- because no union is, I believe, in any collective bargaining situation where the majority of the employees don't support it.

MR. YAREMKO: I would like to take this representation of yours a step further.

Assuming that there were votes in all instances would you then subscribe to the idea -- once you established the principle of the vote in all instances -- that the majority vote of those voting would govern? At the present time it is only those who are eligible to vote who are a factor in whether certification is granted or not; but if the procedure were that a vote was taken in all instances would you subscribe to the theory then that in such instances a clear majority actually voting should decide the issue?

MR. DILLON: I think, Mr. Yaremko, I would have to subscribe to it.

Let us look at the other side of the picture for a moment. Let us compare it to a political election in which you gentlemen have some experience. The people who do not vote don't do so for a variety of reasons, but they haven't any effect on the result. Now, in a labour vote I think one of the obligations of the employee -- perhaps it is infrequently discharged -- is to

express his opinion on all matters that concern him, and if he doesn't then he should be perfectly willing, like the rest of the people in this room, to put up with what happens the same as we abide by what happens elsewhere.

MR. MacDONALD: Does the validity of the point you have just made necessarily hinge on having a vote -- a vote in every instance?

MR. DILLON: Once you grant the principle of a vote I don't know how you are going to legislate for places where, let us say, the vote would be a foregone conclusion either way. I don't think you can do that. I think you have got to provide the vote and that the people choose. I don't see how you can split it up.

MR. MacDONALD: There was someone, for example, Mr. Dillon, who made representations to the Committee already that even the 45 per cent is sometimes a hardship and that in many instances if he could get a figure of 40 per cent that would be a fair figure for any clear right to vote because their view was that the pressure was on the opposite side -- there was obstruction in getting the cards.

MR. DILLON: Mr. MacDonald, let us be quite frank about it, that there are pressures on both sides in the organizational state, and no matter what you gentlemen may report and no matter

what the Legislature enacts those pressures will not be removed.

MR. REAUME: That is the very point. We are told that in every instance if there is any doubt at all in the minds of the Board, as to whether the proper people signed the cards, and petitions against -- all these things are examined very carefully by the Board and if there is any question of doubt in the mind of anybody the Board orders a vote; and only in such cases -- this is the information we have -- only in such cases where they are absolutely satisfied that the union has a majority -- a clean-cut majority -- in favour of what they want to have, will the Board then certify that bargaining unit. We have had this from officials of the Department and of the Board many times, that they are very careful about checking these cards and making certain that everything is in proper order.

Now, then, I don't see what the purpose of a vote would be except as a kind of acclamation.

MR. DILLON: I will put it this way: I have no criticism of the Labour Relations Board's fairness in its endeavour to do what is right and proper from beginning to end -- none whatever -- but with the composition of the Board a decision based solely on union cards and moneys paid -- which can result in certification -- does not

necessarily represent the true wishes of the majority of the employees. It represents it under the procedures we have now. We are saying that it is good for everybody to know precisely what the majority of the employees want, and that a supervised vote would produce that information.

Someone asked me about the 45 per cent. Was it you, Mr. Jackson?

MR. MacDONALD: I think I did.

MR. DILLON: So far as I am concerned, on the basic minimum number of union cards, whatever the Labour Relations Board wanted to say or the statute wanted to say, is all right so far as I am concerned; but you must have the vote.

MR. REAUME: Then, I wonder, following that up, if I could ask you this: Is there a figure at the back of your mind that, in the event of the vote, all these people who signed these cards would not then vote if it were a vote in favour of having a union in the plant?

MR. DILLON: No; my feeling is that they might, or might not.

MR. REAUME: I suppose you hope that they might not.

MR. DILLON: No, I am hoping for nothing.

MR. REAUME: I know something about this business of signing cards, and I would think that if a man signs a card, or a woman signs a card,

it is because he or she wants to join a certain union as a bargaining agent, and I don't think there is much question that that man or woman would vote.

MR. JACKSON: Suppose he signs his name on the petition, too? We have had that example brought up, where the same name appeared on the petition against.

MR. REAUME: But all that information winds up in the hands of the Board, and if the Board sees fit they can okay the union, and if not, No.

MR. METZLER: I wonder if I may pose a question to my friend Mr. Dillon?

MR. DILLON: Yes. It won't be the first one, Mr. Metzler.

MR. METZLER: The submission is that in every case of an application for certification there should be a vote. Now, I think that the members of the Committee understand that this Act of 1950 and other legislation was the first document of complete labour relations which was established in the province. Basically it is a document of the Ontario Legislature. Prior to that time we had P.C. 1003 which was passed by the Federal Government under the War Emergency Act and which we brought into being in Ontario in 1944.

The question is this: Under P.C.1003, this forerunner legislation, the union was enabled to present to the Labour Relations Board not proof

of membership, or membership in good standing, but it could put in what were called authorization cards. In other words, a person in a plant could sign a card and say to the union: "We authorize you to proceed with the application for certification and to represent us as our bargaining agent." If there were secret ballots in every case would Mr. Dillon be inclined to the view that there should be a relaxation of the requirements of proof upon which an application for certification should be made?

MR. DILLON: No, Mr. Metzler, because the gravamen of this whole thing is that everybody should know beyond peradventure, beyond any doubt, what the employees want.

So far as I am concerned there isn't any basic difference between getting people to sign a statement for the union organizer saying "We authorize you to do this and that and apply for certification." The only difference is the payment of two dollars. There is no difference between signing a card and signing a statement and saying: "Please go ahead and act for me." The only element that is in it to differentiate it from the practice of the Board, from what I have seen, under 1003 and 88, is the payment of money.

MR. YAREMKO: And the counter-signing of the receipt.

MR. DILLON: Well, that is the same thing.

MR. METZLER: I must say that I cannot altogether agree with Mr. Dillon. I mean, the signing of a piece of paper saying: "Okay, I want you to represent me" is one thing, but there is involved in the other an acceptance, or an application, by the person for membership in the union, and an acceptance by the union of that person as a member. There is a vast difference.

THE CHAIRMAN: What should we poor lawyers do? All we get as authorization is a retainer.

MR. REAUME: We will take, for instance, a meeting of the stockholders of a company. Many votes are cast there by proxy. Some man might be in the Old Country but he still has a vote.

I want to ask one question: Assuming that a vote was taken in every instance would you agree that whoever wins that vote on that basis is the bargaining agent for that company? Is that what you say?

MR. DILLON: Yes, that is what I said.

MR. YAREMKO: At the present time, Mr. Metzler, if there are 55 per cent then the Board may certify without a vote?

MR. METZLER: I will say the Board will certify -- I mean, in excess of 55 per cent.

MR. YAREMKO: And between 45 and 55 per cent . . . ?

MR. METZLER: . . . there is a vote.

MR. YAREMKO: The Board will order a vote unless it is proved to the Board that there has been intimidation, or some unfair practice; is that not right?

MR. REID: They must have over 50 per cent before the Board can use the section.

MR. YAREMKO: Between 50 and 55?

MR. METZLER: Yes.

MR. YAREMKO: Then, I am putting this question to Mr. Dillon: If there were votes in all instances . . . Have there been instances in the granting of a vote where the application to the Labour Relations Board under this particular Section has been prejudiced -- the intimidation section?

MR. REID: Section 7(5) provides that the Board may, if it is not over 55 per cent but is in excess of 50 per cent, certify if it is of the opinion that the true wishes of the employees will not be revealed by a representation vote. Those usually would be revealed, presumably, where there has been a conference of one kind or another by the organization.

MR. YAREMKO: Would you think it would be advisable, even although the general principle was established, to still retain the section?

MR. DILLON: I certainly would not, Mr. Yaremko.

The basis of what we are saying is that we want accurate knowledge as to the wishes of the employees at a given period. Now, at the time of taking the vote as, it is essential for future good relationships between the parties and essential for the benefit of the community as a whole, we are perfectly willing -- please don't misunderstand me; I am not here -- nor do I anywhere else -- to represent employers who break this Act; I never have, and I hope I never will -- or any other Act; but if the idea -- and this is the thing -- if the idea is that a supervised vote will reveal the true wishes of the employees then there should not be any limits on it; and, as I have said already, I wouldn't be interested in what minimum percentage of evidence was required to get the vote. Obviously, if you had two people out of a thousand in a plant that would be another matter again; but some minimum percentage, not necessarily 40 per cent -- or, perhaps, 40 per cent -- I don't know; maybe 45 per cent. There is not a great deal hangs on the percentage if the vote is, in the end, to be held.

MR. YAREMKO: But may I, again, call attention to the full import of the section where you have a Board which decides, in its wisdom,

under Section 7(5) that the true wishes of the employees are not likely to be disclosed by a representation vote. What you are seeking is the true wishes of the employees to be disclosed?

MR. DILLON: That is right.

MR. MacDONALD: May I say -- this, perhaps, is a repeat -- but, honestly, I cannot yet see the objective that you would achieve by your request in the first sentence in the middle paragraph of page 5:

> " . . . an employer should have
> "a clearly defined right to state
> "his views regarding establishment
> "of a union as bargaining agent,
> "or to call attention to mislead-
> "ing or inaccurate statements of
> "the organizers . . ."

and so on.

Apart from the employer being in the picture to call attention to inaccurate statements of the organizers, what other conceivable objective would the management have in intervening and being able to express its views other than to stop the union coming in altogether?

MR. DILLON: Well . . .

THE CHAIRMAN: Are we through with this question that we were discussing about the vote? Are we through with that?

MR. MYERS: I would like to ask a question: Supposing an employer wasn't satisfied that 55 per cent of his employees had expressed the wish to bring a union in. Supposing the employer thought either that forgeries had been inserted, or names had been forged, could the employer interview all his employees under the existing law and ask them to confirm or deny that that was what they wanted?

MR. METZLER He would do so at his peril.

MR. MYERS: What peril?

MR. METZLER: The peril that he would be accused of intimidation under the Labour Act, and then it would be a question of finding out as to whether or not he did exercise an intimidating effect.

MR. MYERS: But surely the very fact that he went and asked his employees wouldn't be, in itself, an offence?

MR. METZLER: I would say it would be pretty bad.

MR. MYERS: It shouldn't be.

MR. METZLER: I wouldn't have too much hope that the Board would support that.

MR. YAREMKO: That is the difference between this and a supervised, secret vote.

MR. MYERS: I would say that there isn't

any other way of knowing the wishes of the employees without a free vote.

MR. METZLER: The intention of the Labour Act is to provide procedure by which evidence will be supplied. The employer usually appears as the respondent and he has the right to make his representations if he feels that there has been misconduct on the part of a union, and if he is able to produce evidence on that he is entitled to.

MR. MYERS: And if he were to ask his employees if there was any impropriety that would nullify any action he might take? I don't see why he can't interview employees.

MR. METZLER: Well, I don't know how far he can go. The Board, after all, reflects the position of both management and labour.

MR. MacDONALD: Up to now management hasn't lacked ingenuity in finding out what the organizers were thinking.

THE CHAIRMAN: Now, Mr. MacDonald, on page 5 you said you had a question.

MR. MacDONALD: Well, I know that my question is maybe something of a repeat, but I still can't conceive what other objective management would be seeking in this request youmake here -- to correct any misstatements and inaccuracies that the organizers might make -- I can't conceive of what other objective management would be

seeking other than to stop the union coming in altogether?

MR. DILLON: Let me answer your question by asking you one: If he was so misguided as to do that what would be the position of the employer?

MR. MacDONALD: He is acting in violation of the Act which is established to permit a group of workers to join the union of their choice.

MR. DILLON: There is nothing in the Act which prevents him from saying, or suggesting, that the union should not come in. There are clauses in the Act for that.

MR. MacDONALD: But the objective is to provide the procedures for obtaining collective bargaining units.

MR. DILLON: Yes, that is right. All we are saying is that it would improve the procedure -- to come back to something we were talking about a moment ago -- to have a supervised vote on an application for certification, to provide a sure, solid foundation from the point of view of their subsequent relations.

MR. MacDONALD: Maybe I haven't answered your question, but you haven't answered mine: What other conceivable, single, factual objective might management have for wanting to intervene apart from wanting to stop a union coming in altogether?

MR. DILLON: I think I will say to you

what I said to some other member of the Committee before you came in. I think that an employer should have the right to say to his employees: "I wish you wouldn't," provided at the same time he says: "But it is your affair. You do what you think is best for yourself and your fellow-employees."

MR. MacDONALD: That is a pretty difficult proposition . . .

MR. DILLON: No, it is not.

MR. MacDONALD: . . . to take that first position and still say: "You have the ultimate right to do what you like".

MR. DILLON: There is nothing wrong with it.

THE CHAIRMAN: The man knows he has the right under the Act.

MR. YAREMKO: Before we leave this point, Mr. Dillon, it has been suggested that you are going to come back to us with a more specific recommendation.

MR. DILLON: Yes.

MR. YAREMKO: The one about the inaccurate statements -- that is a specific item. The other is so general that you can see from the discussion earlier and now that there is some difficulty -- at least, in my mind -- in understanding what specific items should be dealt with.

MR. MYERS: I agree.

MR. DILLON: I have already said, Mr. Yaremko, that my clients will be very happy, given the necessary time, to come back and state their opinion on any question that arises out of this brief.

I think I am quite in safe in saying that, am I, Mr. Dykes?

MR. DYKES: Yes.

MR. DILLON: But for your protection, and our own, perhaps, it would be advisable to tell us what you want us to talk about, because, after all . . .

THE CHAIRMAN: We have given you some indication, Mr. Dillon, of what we need.

MR. DILLON: Yes; that is purely a lead position.

I hope this Committee will take this seriously, because don't forget that I am not acting for John Jones; I am acting for an association. I can only speak for them on such matters as they are unanimous about.

THE CHAIRMAN: Yes.

MR. DILLON: And, in any case, I don't want to go on. The Committee can instruct me about all sorts of things; whereas, if I have a specific list I assure you I will get the instructions whatever they are. Whether you people like them or not you will get them.

THE CHAIRMAN: Page 5, item 2, Strike Votes. It extends to the bottom of page 7.

MR. MacDONALD: Mr. Dillon, how frequently is this procedure adopted of getting authorization for a strike at the very outset of the negotiations, rather than towards the end when a strike is imminent?

MR. DILLON: I could not say what the percentage is, but it happens very frequently. But I couldn't answer for the percentage.

I have sat on many conciliation boards where the first thing that was said was: "We have to get authority to call a strike."

MR. MacDONALD: Isn't that the general practice, Mr. Metzler?

MR. METZLER: To do what?

MR. MacDONALD: To get authorization for a strike at the very outset of negotiations?

MR. METZLER: I wouldn't say that it is, but there is no question about it that at some stage of the proceedings the union will call a membership meeting and ask for the authorization. I do know that there are instances where the authorization has been sought at the outset of conciliation proceedings, at the time of the appointment of the conciliation officer. But, frankly, I don't view that with too much alarm because there can be a strike in any dispute. We don't negotiate, in

the sense that I am speaking of conciliation services, in the shadow of a strike, or with the thought that it is a fearful thing, because you have got to accept the fact that after the proceedings have been completed the union is entitled to exercise its prerogative of calling a strike if it has the authority of the membership; so I don't think that it would cause any particular confusion to our operators to hear that statement.

THE CHAIRMAN: Supposing that this authorization was given at the outset of conciliation proceedings, and, during the process of conciliation, some of the points of difference between management and labour were resolved . . .

MR. METZLER: Yes.

THE CHAIRMAN: . . . but some others were not . . .

MR. METZLER: Yes.

THE CHAIRMAN: . . . would that authorization originally given still apply?

MR. METZLER: Well, I think the manner of procedure is this, that the conciliation officer is faced at the outset of the meeting with the demands that have been made by the union plus the demands that have been made by the management. Those may be reduced. It may be that the parties will say: "We withdrew this," or "We withdrew that," or "We have been able to negotiate a

settlement of certain issues." So the field is cut down and you bargain for settlement of the dispute and to effect a collective agreement.

Now, they will undoubtedly go back and report to a membership meeting that we have made that amount of progress.

THE CHAIRMAN: But would they have to go back if they were given the authorization to strike unless these demands were met?

MR. METZLER: No; I would say No. If there is no settlement they can go to strike.

THE CHAIRMAN: But supposing some of the matters were settled.. .

MR. METZLER: They usually are, yes.

THE CHAIRMAN: . . . you say that the original authorization to call a strike would still give them the right to call a strike without going back to the membership?

MR. METZLER: It depends on the amount of confidence the membership has in the committee. It is a matter of the internal workings of the trade union.

THE CHAIRMAN: But you also say that they might, quite properly, in respect to the opinion of the membership at that particular time, decide to go on strike in view of the authorization that has already been given?

MR. METZLER: I do not mean to say

that particularly, but the fact is that the membership has seen fit to leave it in the hands of the executive, and if they have that amount of confidence in their executive then they are in a position to exercise it.

MR. MacDONALD: I know that this comparison may not be regarded as being a very valid one, but -- to put the shoe on the other foot -- when a management starts out with a certain set of objectives and they have occasion afterwards to modify them they don't have to go back at any stage, presumably because the shareholders have complete confidence in them.

MR. JACKSON: If they haven't they are fired.

MR. MacDONALD: Mr. Jackson says "If they haven't they are fired." If a union doesn't go back and makes a decision that the membership doesn't agree with there is an election.

THE CHAIRMAN: But, in the meantime, in either case the whole outlook is very seriously interfered with, not only employees and employers but the public in general.

MR. METZLER: I would like to qualify the statement that I have made, in that it may very well be that the executive, or the bargaining committee entrusted to start the negotiations even with the power of demanding a strike in their

industry will go back to a membership meeting and report on it.

MR. MacDONALD: And usually they do.

MR. METZLER: Yes; but if you ask me the question, or if I must give an answer, or if I want to give an accurate answer, I would say the power is there and if you have the power you can exercise the power.

MR. DILLON: Could I interject in this discussion for a moment?

THE CHAIRMAN: Yes.

MR. DILLON: In the first place, we are not suggesting here that unions shouldn't take votes involving the authority to strike. We are not saying that if the union wants to take strike action, and does so after observing the regulatory provisions of the Act as to conciliation and the seven days and all the rest of it -- if they want to take a strike vote on an authorization six months old -- this brief doesn't say that they should not be able to do it. What it does say is this, that after a board of conciliation has reported on whether or not a strike is in existence under certain conditions an application could be made to take a secret ballot -- and this is what we say in the middle of page 7 --

"If a supervised vote . . ."

and so on.

I would be the last person -- and my client agrees with me, I think -- to interfere with the internal management of a union. Once you start to do that you are in trouble, so far as I am concerned; so if they want to take an authorization in June for a strike in December we don't want to stop them. But after a board of conciliation has reported whether or not a strike is in existence, if a union pulls the plug in seven days, or if they want to do it in four, if you have continuing negotiation as of that date, before the plug is pulled, then what we say is that either the unions, or the employer, or the representative group of employees, should be able to go to the proper authority, whichever it turns out to be -- the Department of Labour, we say here -- or any agency that is set up, and get an authorization as of that date; or as to whether they want to return to work on the existing basis.

We are not saying we want this supervised vote before any strike is legal. We are not saying that.

MR. YAREMKO: But, Mr. Dillon,let us deal with this from a practical point of view. Do you think that the idea of a union, having once called a strike, would in any instance make an application to the proper authority to have a

supervised vote on whether their action in calling the strike was justifiable?

MR. DILLON: Yes.

MR. YAREMKO: You can visualize that taking place?

MR. DILLON: Yes; for this reason, that their hands might be strengthened.

A bargaining committee's status, as against the people who appoint them, isn't any more static than any other human relationship. It changes from day to day; and I can quite conceive of a situation where, perhaps, the International officers, for instance, with an obstreperous local, might want that done; or, to put the shoe on the other foot, the local might want to settle it but for some institutional demand the International wouldn't.

You see, there is many a strike, in my experience, that lasts longer than it should. Now, for that I don't blame organized labour and nobody else. Employers in certain cases will defer the settlement of a strike. It has been known to happen. I am not going to cite any cases. The thing is that it is desirable, at a given date of an industrial dispute -- at a given point of an industrial dispute -- to get the true wishes of the employees. Now, it is perfectly true that, in the great majority of cases, the union bargaining

committee is a reasonably adequate channel of information to the employees; but -- don't be under any illusions about it -- there are times when it is the worst possible avenue of information that either the employer, or the Department of Labour, or anybody else interested, could accept.

MR. YAREMKO: Following that up, Mr. Dillon, I can see where the situation arises where a strike has been called the union might ask for a vote and their hands will either be strengthened, or they may be weakened, because of two things. If they apply for a supervised vote they might be strengthened or weakened. An employer making an application . . .

MR. DILLON: . . . runs the same risk.

MR. YAREMKO: Of being strengthened or weakened?

MR. DILLON: Yes.

MR. YAREMKO: It couldn't be, because he has already a strike on his hands. The only thing he might gain from a vote is that if there is a continuation of the strike he has not lost anything. If the vote is not carried then he has gained something. The same thing with an application by a group of employees. If they apply for a vote and if the strike is continued they haven't lost anything; but if by virtue of the vote it is defeated they have gained nothing.

I am sure this is an instance where almost all, or the great proportion, of the applications in almost every instance might be on the part of the employer.

MR. DILLON: I think that would be a fairly reasonable assumption.

This discussion started by someone asking if I thought a union would ever apply, and I said I thought they would. We were talking about the future, but it is something that does exist. To go back to the basic thing, if you grant employees the right to withhold their labour collectively -- and I am the last person who would deny that to them -- then surely if conditions change it is to the interest of the community to find out if the opinions of the employees have changed.

Now, that is the basis of this suggestion. Obviously one couldn't come in here -- I wouldn't, for one -- and say that the employer should be the only one who should have that right, because within my own personal experience some of the things I mentioned to you before have happened, and there isn't very much you can do about it. In the first place, you don't really know what the employees really want to do at the end of a three-week strike. You only know what the committee tells you. All right. On the other side of the picture -- in which I am not very often engaged -- the committee

doesn't really know, or it doesn't want to find out, what the employees really think at the end of the third week of the strike.

That can happen. It does happen.

MR. MacDONALD: Would you not agree that, as a matter of common practice and experience, the bargaining committee does go back and get an expression of opinion from the members, whether by secret vote or otherwise, and whether or not they have had authorization for a strike for a long time or otherwise?

In other words, the import of your thinking springs from your basic lack of faith in human nature?

MR. DILLON: I think when you say I have a basic lack of faith in human nature you are only partially right.

The implication of this is that at any given stage, the employees, and not the union as an institution, should have their wishes given effect to. I know that is a concept that is anathema to organized labour. I can understand why it is. But what we are saying here is that while that may be their concept it is not for the good of the community that it should continue, and one of the ways to stop it is by the proposal we have given that, at any given stage, the employees should be in a position to say, by a majority,

"Well, to hell with this company. We are going to fight them till the end. We are not going to take the pittance they have offered us," and they have also got to be in a position of being able to say: "Well, this is the best we can get out of them," and get back to work.

MR. MacDONALD: But to get that extra degree of assurance you are going to run into practical problems of administration.

MR. DILLON: That could be; but so far as I am concerned the practical problems, in general, of industrial relations have got to be solved, because it is a most important thing to the community as a whole, and while there may be practical problems there is no problem that, in the end, can't be solved, and if the idea is good then I am not in any frame of mind, either now or later, to abandon that idea because the practical problems are difficult.

THE CHAIRMAN: Gentlemen, it is now one o'clock.

We will adjourn until two o'clock.

---Whereupon the Committee adjourned at 1.00 p.m. until 2.00 p.m.

(Page 1505 follows)

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The hearing resumed at 2 p.m.

THE CHAIRMAN: Gentlemen, it is now 2 o'clock.

MR. DILLON: Mr. Chairman, could I have the opportunity of answering a question which Mr. Reaume put to me this morning, which I was only able to answer in very general terms, and which now I can answer in specific terms.

You remember, Mr. Reaume, that you were, shall I say, in some wonderment at the fact the member companies in this association should be interested in certification proceedings, because they already had some experience in collective agreements.

MR. REAUME: Yes.

MR. DILLON: The general answer which I gave you was this whole brief rested on the community level. That is what we are really talking about. But the specific instance is -- and I hope this won't be an invitation, Mr. MacDonald -- there are certain elements in the employee section in the member companies who are not yet organized.

MR. REAUME: There are! There are some elements in the companies who are not organized as yet?

MR. DILLON: That is right, Mr. Reaume.

MR. REAUME: I am surprised.

THE CHAIRMAN: Thank you, Mr. Dillon. Page 7, gentlemen.

MR. MacDONALD: You have to draw that to the attention of the U.A.W., I suppose?

MR. DILLON: I have no doubt they know it, Mr. MacDonald.

THE CHAIRMAN: "Rights and responsibilities in the community interest", page 7 and 8 and 9. Any questions, gentlemen?

MR. YAREMKO: Mr. Dillon, the proposition set out on the bottom of page 8 and continued on page 9 as to shifting the onus of proof in such an instance, you state, "Unquestionably it would be much easier for a blameless union to disprove responsibility for such acts", but regardless of whether it would be much easier, would it be a very easy thing for a blameless union to disprove?

MR. DILLON: I would think so, Mr. Yaremko. You see, what you have here is a principle that the lawyers call shifting of the onus from one side to the other.

THE CHAIRMAN: It is a very bad thing.

MR. REAUME: It is very handy, too.

MR. DILLON: We have some in our motor negligence legislation, and it means --

you understand, of course, what it means now?

MR. YAREMKO: Oh, yes.

THE CHAIRMAN: Did you say in motor negligence legislation?

MR. YAREMKO: Under certain sections of the Highway Traffic Act?

MR. DILLON: Yes. I am not too familiar with the Motor Vehicle Section, but there are areas where it is felt that that is the way it should be done.

MR. YAREMKO: They are from example cases, though, are they not?

MR. DILLON: Sure, because in general people who make an allegation should prove it. That is one of the basis upon which our whole system of law and order and the rule of the law is based.

But we are saying here that where you have illegal and unlawful acts committed by members of unions, you will see it say, in an area where there is an industrial dispute, or only acts relating to the relationship of employers and employees, that if there are such wrongful acts, it should be the obligation of the union to prove as an institution they had nothing to do with them. That is what this means.

MR. MacDONALD: Well, Mr. Chairman,

in relation to this basic question of making a union liable to suit, it is interesting to discover that there is considerable argument among lawyers as to whether or not it is a good thing, whether you can achieve very much, and, of course, you usually find that the lawyer acting on behalf of management thinks they should be sued, and if he normally acts on behalf of the trade union, he thinks the opposite. However, I have been interested in the last day or so to read papers that were presented to the Bar Association at their 1955 meeting, and presumably they made a pretty thorough investigation of this in what I would assume was a completely disinterested way, because there they were not acting on behalf of anyone . . .

MR. DILLON: Yes.

MR. MacDONALD: And the import of the papers that were presented on that occasion, it was very definite that making a union liable to be sued would achieve no purpose. Have you any comment on that?

MR. DILLON: I would be very glad to comment on it, Mr. MacDonald. What you have said in respect to that opinion of those lawyers who were represented by the Canadian Bar Association is, of course, true.

I may add that those sort of things

get up to the Canadian Bar Association after they are dealt with by the various provincial committees interested in the subject, whatever it turns out to be. However, I think I said this morning that it was fatal to have fixed opinions in this field, because once you do, it can't be effective.

Now, from the point of view of a member of the legal profession, and only from that point of view, a collective agreement that cannot be enforced by the courts of the land is just not an agreement. Now, it is true of this area to the same extent that it is true of any other matter that arises in industrial relations: When you set the rules, they will operate to the advantage of one side of this high board fence, which I wish were not there, in another set of circumstances they will operate to the advantage of the people on the other side of the fence. So, it follows that legislation, which is your gentlemen's province and obligation, should set fair rules and let the chips fall where they may in the individual instances that arise.

Now then, from a lawyer's point of view it is better, and this brief says so, that the courts of the land could make the very few people on both sides of the fence

do what either, (A) Their agreement obligates them to do, or (B) follow and obey the decision of an arbitrator, and lest there be any misapprehension about what we are saying here, we believe that -- to put it quite colloquially -- what is sauce for the goose is sauce for the gander, and it will work both ways. We have said so only rather indirectly. I want to make that perfectly clear.

Now, I realize that there are plenty of arguments both ways. This is a view of my clients, with which I am not in disagreement, and we believe not that it would result in a multiplicity of litigation because as we have already said, and it is perfectly true, that the majority, the vast majority of people on both sides of this area do what they are contractually obligated to do.

But for the benefit -- well, it would hardly be a benefit, but to make the few who don't, do so, then the mere availability, the provision in the Act -- I am not talking about incorporation of unions or anything like it -- the union could resort to the court in its own name as an institution, the company could resort to the courts as against the union as an institution, and in the end the company would be better off.

Now, having said that, let me relate back to one of the basic philosophies in this brief, and it may be that you would not agree with the philosophy -- that is beside the question -- it proceeds on the basis that neither of these parties in this field should have --what I have called a balance -- a preponderant balance of bargaining power, and that the aim of legislation should be so far as possible to keep it relatively even.

MR. MacDONALD: I don't think there would be any argument on the theoretical statement of that. I think the argument comes as to whether or not the preponderance is really on the union side.

MR. DILLON: Quite so. And there can always be many and varied opinions about that, Mr. MacDonald. But you will, of course, expect me to proceed on the assumption that presently for the good of the community the unions have too much power -- too much bargaining power.

I don't like to use the word bargaining, but after all we are talking about a collective bargaining statute, and this proposition comes under that basic philosophy, that if it were possible that unions could sue or be sued in their own name, that some of the power, excess

power in some very few instances -- now don't get me wrong -- would disappear, and we think it should.

Now, as you quite properly pointed out, there is a wide variance of opinion about that. This brief sets out the opinion of my clients, and obviously they are prepared to take what goes with it. We are not saying to you we should have the right to sue the union under a collective agreement alone; what we are saying is that the collective agreement should not in the end be any different from any other agreement between any two people in the country. The court should be in a position to enforce it in the end.

THE CHAIRMAN: Do you know of any other country where it can be done?

MR. DILLON: No, I do not. But in this progressive province, it might be an area that we could make some advances on.

MR. REAUME: I was just thinking of an incident -- supposing that in the event of a wildcat strike, as they generally are referred to, which I suppose --

MR. DILLON: They happen every day, you know, off and on.

MR. REAUME: Yes, I know. Supposing the wildcat strike occurs and the heads of the

unions are not the people who are responsible for it, they don't know anything about it, but it happens, and maybe four men can probably cause it, what would you do in that case?

MR. DILLON: Well, under the proposal that we made ...

MR. REAUME: Yes?

MR. DILLON: All the union would have to show us that as an institution they disapproved of it. I don't want to go into further detail. That is enough. How they disapproved of it, is another matter.

MR. REAUME: Where would you prove it, in court?

MR. DILLON: If necessary, yes.

MR. REAUME: And then, if you did not agree with what the court found in that court, you could appeal it, I suppose, to a higher court?

MR. DILLON: Well, yes, Mr. Reaume, if the ordinary provision about litigation carried over in the proposed area that we are talking about.

Now, you will remember this morning when I was asked about -- I have forgotten just what it was --

MR. YAREMKO: Appeals from the Board.

MR. DILLON: Appeals from the Board, I said you had also on the other side of it the necessity for swift determination so far as you can do so. Now, it could be that you might -- if you were going to do this, you could limit the recourse, if you want to, or you could let it go on indefinitely. We have expressed no opinion about that.

But I have said to you that it shocks the legal conscience,at least of me, that a collective agreement is the one type of agreement over which the courts cannot make the violator behave. That is the theory and the principle and the basis of the Act. You find it expressed, for instance, in the provision that the Arbitration Act shall not apply to what we know **agreements** are. It has that effect.

Now, I am quite willing to admit that there are arguments both ways. But I will also say this: We have never tried it, so we don't know.

MR. REAUME: Well, we have never tried jumping off a bridge either. It might be all right.

MR. DILLON: Well, Mr. Reaume, unless these hearings are to be completely ineffectual in the end, somewhere along the line some bridge will be jumped off.

MR. REAUME: It is all right, as long as they are not high ones.

MR. DILLON: What is the difference?

MR. REAUME: Well, here is the difference: In the back of a union's mind there is always this one thought, I think, that although the people will openly say that they think unions are here to stay, they think they are a fine thing, there still remains in the back of the minds of the union people that there are some people in this province who would take steps by the insertion of the thin edge of the wedge for the purpose of trying to break them up, and it may involve a company and a union who is not very well fixed financial-wise. This business of going into court and appealing from one court up to a higher court and all that kind of stuff is an expensive thing, and I am just wondering if it will serve any real purpose. If it would, well, that is fine. But I am just wondering if it would.

MR. DILLON: We think it would, Mr. Reaume. There have been instances where both unions and companies have just simply refused to implement an arbitrator's award. They should not be able to do that. In the end, organized labour would be better off.

Now, I would be the last person to deny that general responsibility in the community is organized labour. We cannot get along without it. We will never have to, because its strength and its power will increase.

One of the things that troubles me is that the responsibility that goes with that does not perhaps increase at the same rate. And that statement is a general statement and can't possibly apply to every union, but it does apply to some. You can say the same thing about companies. The majority of them honour their commitments, and that's that. But for the few who don't, on either side of the fence, what is wrong with making them do so as a matter of principle? We do it in leases; we do it in offers to buy houses; we do it in all of the variety and intricate contracts that result from our widespread commerce. We do it in every other field but this. Maybe it is time we should try to do it here.

MR. MacDONALD: Mr. Chairman, you yourself have conceded that the right to suit is required only to be able to cope with a very small minority of the instances, and in the most cases they are abided by each party. So what in effect you are saying is, you want

to destroy the whole voluntary basis?

MR. DILLON: No.

MR. MacDONALD: That is what you would do if you have a right to suit?

MR. DILLON: What voluntary basis?

MR. MacDONALD: Of a union, which is essentially a voluntary organization.

MR. DILLON: Well, I maintain that.

MR. MacDONALD: Yes. And you would destroy the whole voluntary basis of a union to be able to cope with that small minority of cases. Now, I don't propose to go into the details of it because I have not got the papers before me, but the interesting thing about the papers submitted to the Canadian Bar Association is that even if you set this out as your objection, to achieve what you would describe as greater responsibility on the part of the union that did not live up to its contract, their conclusion was that you would not achieve that objective by making them liable to suit. And I remind you once again this presumably was a disinterested paper.

MR. DILLON: I think, Mr. MacDonald, although at the moment I don't remember the details of that finding, but if my recollection serves me right, it had to do with the incorporation

of unions as one means of achieving that.

MR. MacDONALD: Yes.

MR. DILLON: And not necessarily with the virtue or vice of making both parties subject to enforcement of their respective obligations. Now, that is my recollection of it. That is all we are saying here, and it can be achieved by a very simple section in either this statute or the Judicature Act.

THE CHAIRMAN: Mr. Dillon, would you care to draft the simple statute section that you refer to for us, so that we could consider it by having it before us? I mean, it would be helpful if you would, not saying we are going to give effect to it, mind you, but just to see what the simple section you refer to would be. Mr. Reaume suggests we are looking for free legal advice.

MR. DILLON: No. I assure you, gentlemen, I personally desire to be helpful

THE CHAIRMAN: I know that.

MR. DILLON: Because I operate in this field to a very great extent and I try to do so with as much objectivity as is possible.

3 THE CHAIRMAN: Well, you have been kind enough to offer to come back.

MR. DILLON: I will do that.

THE CHAIRMAN: Thank you very much.

MR. YAREMKO: Mr. Dillon, what about the historical background describing the union as a voluntary association, comparable to the church or any other voluntary association which also, as you know, cannot be sued?

MR. DILLON: Quite so.

MR. YAREMKO: Have you any comment on that?

MR. DILLON: But as a rule, churches and clubs and any other voluntary organizations don't make agreements involving the livelihoods, the remuneration, the working conditions and 50 per cent of the time of the people who compose them. That is the difference.

MR. MacDONALD: In other words, you should not place an instrument in the hands of somebody who can smash an organization which has that degree of influence over people?

MR. DILLON: I am sorry. I did not quite hear you, Mr. MacDonald.

MR. MacDONALD: Well, the import of your statement is that in the instance of unions, because they have this important role, that they should be liable for suit; but if they have this important role they can be destroyed through suit, and you are going to have an even more serious effect on

the lives of the people.

MR. DILLON: You are begging the question from my point of view but not from your own. I have not any qualms whatever it would ever destroy a responsible union, ever. I don't agree with it. And from some points of view, and in some circumstances, it would be a very great benefit to the union.

THE CHAIRMAN: Is there anything else, gentlemen?

MR. METZLER: Mr. Chairman, as a matter of passing interest on this subject, the Committee would like to know that back about 1900 a very famous case in Great Britain called the Taff Vale Case, the union in that instance was sued for alleged damages arising out of a strike. It was found there to be a quasi legal organization and answerable in damages. I believe that individual members may have been sued. As a result of the decision which, I think, went to the House of Lords, the Trade Unions Act of 1906 was passed in Great Britain to make sure that unions would not be subject to suit.

MR. DILLON: That is quite so, Mr. Metzler.

MR. MacDONALD: I think it was a later trade union Act, because I think that

case was up in '12 or '13.

MR. METZLER: I don't think so.

MR. MacDONALD: I am sorry.

MR. DILLON: I may add in this province there is an area of dispute as to whether or not you can have recourse through the courts against unions and how you would do it. It should be made clear and made so there is no doubt in the province that the average employer can be sued -- any employer, whether he is an individual or corporation, or a partnership.

THE CHAIRMAN: Is there anything further, gentlemen? If not, Mr. Dillon, on behalf of the Committee and as Chairman of the Committee we would like to thank you and the gentlemen with you most sincerely for the great assistance you have been to us, and we do hope that you will give us the additional information that we request. If you get in touch with our Secretary, or he will get in touch with you, we will arrange for a mutually convenient time for you to be here.

MR. DILLON: Very well.

MR. MacDONALD: Mr. Chairman, if Mr. Dillon and his group are going to come back again, I wonder if I might just ask if he considered that question I had with regard to the sentence in the middle of page 5 as to

what other purpose management have in mind in wanting to intervene in certification, other than to block the union altogether? I think you will recall our exchange.

MR. DILLON: Yes, I remember, and I think you will remember the answer I gave you, and you will probably get the same one again.

MR. MacDONALD: Well, if there is no other conclusion other than to block the union --

MR. DILLON: I would not draw any such conclusion under any circumstances. You are at liberty to draw what you like.

THE CHAIRMAN: Thank you, gentlemen.

Gentlemen, we are now to hear from the Canadian Independent Labour Associations and Unions. Would the gentlemen who are going to present the brief please come to the table.

Gentlemen, this organization, I believe, has a delegation of some 23 members here. Of course, the 23 of them, I suppose, do not intend to present the brief. If those who are going to present it would please identify themselves, so that we will know who they are.

MR. ELLIS: Mr. Chairman and Members of the Committee, before I ask Mr. Smith and Mr. Demeresq to read our brief to you and explain our position in these problems,

I would like to say first that those present represent only a small fraction of our group.

THE CHAIRMAN: Yes.

MR. ELLIS: Those who presently are setting their signatures to the brief represent roughly 10,000. However, we receive support from several other unions of independent labour whose total is approximately 25,000.

I would like to ask Mr. Smith to read the first half.

THE CHAIRMAN: What is your name, sir?

MR. ELLIS: My name is Ellis.

THE CHAIRMAN: And the other gentlemen?

MR. ELLIS: Mr. Smith and Mr. Demeresq.

MR. MacDONALD: What are the other unions, may I ask, that have indicated their support to this brief?

MR. ELLIS: There is the Canadian Brotherhood of Railway Running Trades, and two or three other locals that are not on this brief, of which Amalgamated Unions of Canada is one.

MR. SMITH: Perhaps I should, in the first instance, explain to you that the presentation of this brief as it concerns the

Ontario Labour Relations Act is primarily one of freedom, and these men here, while they are all delegates of organizations, including one in Mr. Morningstar's riding, they are primarily concerned, as you will see in this brief, with freedom and liberty under the Ontario Labour Relations Act. Of course, I want you to understand I have been 37 years engaged in this particular work with trade unions, and have had much to do with the basic foundation of these things in the first place. That is the reason that these boys came to me and asked me if I would take down notes for them and construct a brief and present it before the Board today, and answer your questions as they concern the Labour Relations Act. I consider it a pleasure to do so.

Would you like me to read the brief?

THE CHAIRMAN: Yes.

MR. SMITH: Or would you like me to give you some introductory remarks?

THE CHAIRMAN: Well, the procedure we have been following, and we find it achieves the desired result with the minimum of delay, is if you will read your brief, and then we will ask you questions.

--- (Mr. Smith and Mr. Demeresq read brief).

MR. SMITH: Mr. Chairman, I am very sorry but there are three small omissions in this brief which we left out accidentally. If you turn to the table of definitions of this Act, under Section 45 in the Construction of the Act, one is referring to the definition of an employee and the other to penalties for contributions.

The other day someone asked the question, and that is the reason I am bringing this up about corruption.

Yes, gentlemen, there is corruption in Canada. I have the evidence. Plenty of corruption in Canada, and that is the reason I am bringing up Section 45. If you want me to go ahead with that . . .

MR. MYERS: Yes.

THE CHAIRMAN: Just a moment, is this a supplement to your brief?

MR. SMITH: Yes. I will give you a written statement, Mr. Chairman. I will give it to Mr. Perkins tomorrow. But I know it. It won't take me very long.

You have the definition of employees here, but I would like the committee to make note of the fact that I am one of the last to

understand a self-employed person owning a truck that is on a contracting basis with a construction firm, for instance, that comes into the scope of this Act. I would like to know of a person owning three trucks and having drivers driving them to become eligible to come within the meaning of this Act. M answer is no. Last Fall we heard that drivers for the Teamster's Union organized the employers who owned several trucks into the teamster's Union, and if it is all right for me to disclose this fact, I am going to disclose it here, that I now have evidence as of a few days ago where a construction employer on a project had been stopped from getting gravel with his trucks because there was a clause in somebody's agreement and finally he went down to the union and paid out $25 initiation fees and $4 for one month's dues for the truckers in order that they could take down that gravel and not stop his job any longer. That is one instance of corruption.

I am just mentioning that to you because it is going further than this Board and going immediately. We are going to stop this sort of thing. That is a violation of Section 45. No trade union must interfere with the formation of a labour union,

and likewise, an employer must not interfere with the formation of a labour union, and when a construction man deliberately goes down and pays $25 initiation fee in respect of 15 or 20 truckers and pays $4 in dues to appease the union, I am saying that is corruption plenty in this country. I am not at liberty to mention another one at the moment --

THE CHAIRMAN: If you are not at liberty to mention it, don't mention it. We don't want to have something that you can't tell us. If you cannot tell us everything about it, don't tell us anything at all.

MR. SMITH: I would like this committee to make note of the definition of an employee.

MR. REAUME: You are speaking now of the owner operators of a Teamster's Union, are you not?

MR. SMITH: I am speaking of an owner, an operator of a truck, a dump truck, for example, a 10-ton dump truck or more is on a contract basis that he will haul gravel so much per mile from a gravel pit on a two-acre construction job, and he may have two or three other drivers in his employ. There is nothing in this Act to state he is subject or eligible to join a trade union, which I am quite sure he isn't.

MR. REAUME: You are talking about

MR. REAUME: You are talking about owner operators?

MR. SMITH: Yes. When they couldn't settle the thing, they shut down the job for eight or ten hours and the contractor was getting stuck for material in continuing the job, and he then turned to the union boys and forked over the money.

MR. MacDONALD: Mr. Chairman, before that statement goes unchallenged, I think we have Mr. Finkelman's evidence that they examine any application on behalf of a group like this to find out whether their actual relationship to the company -- or their status is that of an employee, and if so, they can be certified.

MR. REAUME: I think so. I think the owner-operators can join a union, can't they?

MR. METZLER: I would say this, Mr. Chairman, that an owner-operator, if he were to make an application in respect of truckers who were in operation, the application for certification would be turned down by the Labour Relations Board because they are regarded as individual contractors.

MR. REAUME: Tell me, if a group of owner operators made application to become members of a union, is there anything wrong

with that?

MR. METZLER: There is nothing wrong with it as far as we are concerned, but if the question arises as to whether or not a bargaining agency will be established under the Labour Relations Act for the individual owner-operators or a group, the answer is that we would not acknowledge them as having proper status.

MR. REAUME: But I am only asking, is there anything wrong with a group of owner-operators joining a union if they want to?

MR. METZLER: No; there is nothing wrong, but I mean it does not establish any rights under the Labour Relations Act in respect to their bargaining position.

MR. SMITH: Mr. Chairman, I think Mr. Metzler is a little out on that. An employer is defined as a person employing one or more employees. If a man has a truck or he has four trucks, he can join the Teamster's Union under this Act.

MR. METZLER: You can go further than that in respect to the drivers of the trucks. If a man has four trucks, and he may be driving himself, there is nothing to prevent the otherthree drivers from joining the Teamster's Union or any other organization of their choice

and applying for certification to bargain with the owners of the trucks.

MR. SMITH: That is it.

MR. REAUME: We might as well make it clear that the real reason why owner-operators join a union is for the purpose of increasing, if they can, the hourly rates that they get for their trucks. Now, there are many owners of trucks who also operate their own trucks.

MR. SMITH: That is true.

MR. REAUME: Is that true?

MR. SMITH: That is true.

MR. MacDONALD: In effect, the truck is the equivalent of the carpenter's tools?

MR. SMITH: Yes.

MR. REAUME: Exactly so.

MR. MacDONALD: He considers it as the tool with which he works, and therefore he is eligible for unionization?

MR. REAUME: That is right.

MR. SMITH: That is your view, Mr. MacDonald. There is nothing in this Act which says so. That is what I am arriving at.

MR. REAUME: Well, also in the Act -- there is not one thing in the Act which says a man cannot join the union either?

MR. SMITH: Oh, yes, definitely.

MR. MacDONALD: Not the owner-operator.

MR. SMITH: But the owners are in the Teamster's Union, plenty of them right now.

MR. MacDONALD: That is true. There is not a thing in the Act which says the owner-operator cannot join a union if he wants to.

MR. METZLER: It becomes a question of fact, Mr. Chairman, as to the status of the particular individual. If a man is employed by an employer and his tools of operation or the things he needs in order to operate that is a problem, then he may not be an individual contractor. He may have the full status of an employee. The fact he owns a truck, drives it, is not necessarily the determining factor as to his status under the Labour Relations Act.

MR. YAREMKO: Would it not apply to a man who is an owner and operator himself, and at the same time owns four other vehicles which were driven by his employees? Would that not change the picture?

MR. METZLER: Well, the situation could arise, Mr. Yaremko, that a man might have three trucks. He might not supply the drivers. The drivers may be supplied by the man who is carrying on the job. Now, they are all employees of the one contractor and they may be subject --

they would be on his payrolls for purposes of, say, the deduction of income tax, for Workmen's Compensation, Unemployment Insurance, -- all these are factors which must be considered in assisting the Board to arrive at the status of the particular individual.

MR. SMITH: In this case, Mr. Chairman, these truck drivers are hired by the truck owner himself, not the contractor, and some of them have two and three, and both the truck owner and the drivers have been intimated into joining the Teamster's Union. That is the point, and it is not covered by this Act.

THE CHAIRMAN: Now, gentlemen, we are getting away from our usual procedure due to the fact that you do not have this incorporated in your written brief, Mr. Smith. The way we have been dealing with these briefs is page by page. So, we will revert back to the submission on page one. Is there any question arising on page one, the introduction?

MR. MYERS: How many men do you say your unions represent?

MR. SMITH: Well, this union present here today comprise 10,000 persons.

MR. MYERS: And are there more?

MR. SMITH: There are 37 unions which have subscribed to this brief, and they represent

approximately 16,000, outside of the Canadian Association of Railwaymen which comes under the jurisdiction of the Federal authority, and outside of that I believe it covers 10 plus 16.

MR. MORNINGSTAR: 26,000?

MR. SMITH: Yes.

MR. MacDONALD: I think, Mr. Chairman, that we should have the total number of people who have in effect subscribed to this brief. I asked the question earlier and the answer was made that the Canadian Brotherhood of Railway Running Trades was one.

THE CHAIRMAN: We have a list of 23 men.

MR. MacDONALD: Those are the 23 men that have originally subscribed to that brief?

MR. SMITH: That is true.

MR. MacDONALD: Plus an additional list of members who have since subscribed to it?

MR. SMITH: Yes. We have not got them off hand. I have them in the office and I can supply them.

THE CHAIRMAN: Would you mind supplying the Secretary with that list?

MR. SMITH: I will.

MR. SPOONER: May I ask a question on page one. "The registration of all unions should be essential to full responsibility to membership

and the community at large." Exactly what do you mean, sir, by registration of all unions?

MR. SMITH: Well, a registration of all unions -- these organizations are registered; they are registered and fully responsible organizations, every one of them. I believe, as they do in the trade unions in England, there is voluntary registration. 9.7 million workers in trade unions in England today are under voluntary registration, 90 per cent. I have it here someplace in the Trade Union Magazine. I can leave it as an exhibit for you, if you wanted to have it.

The statement is this, that in registration under the Trade Unions Act in England they must file with the Registrar a list of officers, copies of their rules, and these must include provisions governing expenditures, benefit payments, fines or forfeitures, the appointment and removal of officers, periodic auditing of accounts, and the inspection of books and membership lists by every person having an interest in the funds of the trade union in England.

This oovers, according to this statement of 1955, 90 per cent. of 9.7 millions of trade unionists in England, voluntary registrations.

THE CHAIRMAN: Who would they register with?

MR. SMITH: With the Registrar General in the Old Country.

MR. WREN: The Registrar General under the Crown?

MR. SMITH: Yes. British Unionists find that voluntary registration and disclosure rules have not substantially interfered with the inner workings of their unions. The privileges that go with registration have more than offset any red tape.

They found that so here, so that, gentlemen, is the reason we say there should be registration.

MR. WREN: Would you say they are fully registered here, all of these groups?

MR. SMITH: Yes.

MR. WREN: Where are they registered here?

MR. SMITH: Yes.

THE CHAIRMAN: Where are your groups registered?

MR. SMITH: These groups are registered under the Trade Unions Act of Canada.

THE CHAIRMAN: With whom?

MR. REAUME: In Ottawa, I suppose?

MR. SMITH: In Ottawa.

MR. WREN: With the Department of Labour in Ottawa?

MR. SMITH: No, there has been a change in the past six years in Ottawa. It used to be the Department of Labour, but the Department

of Justice took the registration of trade unions out of their hands.

MR. WREN: But you are registered -- what I am trying to bring out is, you are registered with a government agency?

MR. SMITH: Oh, yes. Definitely.

MR. SPOONER: In Ontario, then, there is no such registration.

MR. METZLER: There is no registration, no.

MR. SMITH: Here is one of these organizations right there. Registered under the Trade Unions Act of Canada and making its financial statements in accordance with the law.

THE CHAIRMAN: Do you want to file this as an exhibit?

MR. SMITH: Oh yes. Very glad to let you have it.

MR. MYERS: That is not your own application?

MR. SMITH: No.

THE CHAIRMAN: Page 1, "Freedom of Association", and page 2.

MR. MacDONALD: Mr. Chairman, coming back for a moment to this registration, are all of the unions in your group Federal unions, so to speak?

MR. SMITH: No. All but one are in the

Ontario sphere.

MR. MacDONALD: And therefore, they all in effect would come under the jurisdiction of the Ontario Labour Relations Board?

MR. SMITH: Of the Provincial Labour Relations Board of this province.

MR. MacDONALD: Yes.

MR. SMITH: But they are registered under the Trade Unions Act of Canada.

MR. MacDONALD: Are your unions generally certified or are most of them voluntary unions?

MR. SMITH: Yes. All but one organization is certified, and the membership range up to 1,150. Dominion Electrohome is an example, it has 875 -- would I be close to it -- 875, and certified for many years, and the Canadian Stock Workers Union has 35, I believe. Then there is a local -- I forget the local number of the Amalgamated Unions of Canada -- that is 30, and then they have one down in Galt which has been certified for years, too. They are all under collective agreement.

THE CHAIRMAN: Page 2, gentlemen, "Individual Dignity and Human Freedom".. Any questions?

Page 3, "The Ontario Labour Relations Board".

MR. WREN: On page 3, you make mention

there about midway in the page,"In view of the fact that the employee representatives are paid officials of one section, to wit, a minority section of the total labour force in Ontario". Would you enlarge on that statement?

MR. SMITH: Yes, I would be glad to. First of all, I would like to say that I was for many years a member of the International Trade Union in this country. I personally am not opposed to that as such. I have other reasons which I can explain whenever you want me to as to why I am opposed to certain things that take place in constitutions.

But these employee representatives on the Board, they used to have four on each side and a Chairman; then we reduced it some years ago from the nine-man Board to a five-man Board, with Mr. Finkelman in the middle, and then Mr. MacDonald and then Mr. Draper and back to Mr. Finkelman, and then we had two on the outside.

As you know, some 18 months ago there was a merging together between two union organizations and they changed their identity and became one identity in themselves, and they both represent one section of the Labour movement.

Now, we feel this way, that as a trade union organization those two men cannot be said to

represent any more than a small minority, because the International Union of Canada who come under the scope of this Act have only got 21.5 per cent. of the entire population.

6 MR. WREN: Yes. But you leave the impression here that as far as -- I am not interested in the rest of Canada at the moment -- but as far as the Ontario Labour Relations Board is concerned, you suggest here that perhaps your group should be represented on the Board?

MR. SMITH: No.

MR. WREN: What I am getting at is, those who are on the Board as employee representatives represent only a minority of the trade unionists in Ontario?

MR. SMITH: That is right, of the workers in Ontario, and they are all affected by this Act. All workers are affected by it. And I believe there should be one other person put on the Board to look after the interests of the rest of the workers in this province, instead of two persons.

You know, Mr. Wren, I would like to just for one moment say that up until some four or five years ago, I was a regular daily visitor to the Labour Relations Board, and I have fought many, many cases in front of this Board, and at one stage in my career I said that is the last one, I will not go here any more, and never did. I never went back since

on a Labour Relations Board case, because I know what goes on in that Board, and that is the reason I want somebody on that Board that these men can go to, and feel it should be someone who is not prejudiced and biased and they are going to get a square deal when they get there.

MR. MacDONALD: What do you mean, you know what goes on in that Board?

MR. SMITH: Well, as an example, Mr. MacDonald -- I believe you are a lawyer ---

THE CHAIRMAN: No, not really.

MR. MacDONALD: No.

MR. SMITH: The intricate certification which goes on before that Board, the applicant is called upon to prove his case. Now, there's ways that a Chairman can direct a meeting. He gets in there to handle this case, but of course, they know this is such and such a trade union with a big union hall, they have got a constitution and all kinds of paid officers, and somebody over here is intervening in the proceedings, and it happened just last year, and lo and behold, someone over here is prosecuting the intervenor. Instead of proving his case, he is going over here and knocking this man down to a common denominator, and the Chairman lets him ramble, but when I was over there he didn't get away with that, but they do get away with it today, and I object to that sort of thing.

The intervenor I am referring to, and I am going to tell Mr. Metzler whom I believe is a member of that Board as a part time chairman, had a collective document which is a legal document consummated by two parties on behalf of a third party, and somebody on that Board induced that intervenor to withdraw that application and deposit the card, and within 24 hours the application was certified.

THE CHAIRMAN: What case is this that you have just referred to there?

MR. SMITH: The Mansfield Rubber Company in Barrie, Ontario. There was an agreement drawn up in July, 1956. I know, because I was there. Several meetings were held and an agreement was drawn up. 95 per cent. of the people answered the petition for certification of the rubber workers and it was in before the Board. Now, this is once more by 95 per cent. signing a voluntary application card with a check off. That was that.

Down it comes to the Board. Here we are with a document that says the application for certification in August, almost September, is premature, and therefore the Board has no jurisdiction. The Board starts to hear that case. That agreement has gone into the Board. It had it on trial and it allowed Mr. Olan all kinds of latitude to kick down dead cats. It was something that had to be determined. They had a vote and the labour workers were beaten.

So these people were then beaten to set up their own organization. They didn't want it, and after they got it done they went down to that Board and somebody started to interject something about company intervention and Coca Cola stands. They were induced -- and I am not going to bring this gentleman's name in, he is not a member of the Board now, he resigned about a year ago. He said if I was you, the Board is prejudiced on this case, I would withdraw my intervention and ask -- deposit your cards and ask for a vote. They did. And I was coming from Midland the next day when I met an employee. He said, "Mr. Smith", I said, "What?". He said, "They have just been certified".

THE CHAIRMAN: Who is "they"?

MR. SMITH: The Labour Board certified. This kind of thing is going on. And I am a very outspoken person, but I believe in speaking my mind, gentlemen. After being in this employment since 1912 and being with Mosher in 1930 and fighting my battle through with the Canadian Labour Movement, I say these people and others in this province are entitled to a representation on that Board who are not to be prejudiced or biased, and who will just give them a square deal. They haven't got it now.

I certainly would not appear before that Board again in its present state. Certainly wouldn't do it. I know Mr. Archer and I know him very well,

and I know Mr. Harvey, but I certainly wouldn't appear. That is being frank.

MR. METZLER: Mr. Chairman, I am not in a position to speak with respect to the particular cases. I would like to say this, that there has been no resignation from the Ontario Labour Relations Board by any of the members until within the last few months when there was a change, and one of the employee representatives on the Board, he was sitting on the Board on the 1st of August of this year.

Now, I am not a member of the Board today. Mr. Rice, who is present, is Vice-Chairman of the Board and he replaced me. That was the arrangement that was made, that I would carry on as Vice-Chairman up until such time as a full-time Vice-Chairman could come into the picture.

But I can say from my own observations, I am convinced in my own mind that the five, six men who are on there representing labour-management and the government, because the Chairman is an impartial Chairman and the Vice-Chairman is impartial, are men of the highest integrity. I am sorry to hear the allegation made that these men do not conduct themselves properly, because I am convinced that they do. I have, as Vice-Chairman, taken part in the deliberations. I know that they are not unanimous in their views in respect to all cases, but I know while they may argue amongst themselves, they do in a forthright

fashion declare themselves.

I have myself sat to hear cases where independent organizations have appeared for certification and it has been granted. I can say this to you, that I am convinced that the same rules that are applied in respect to the certification of an International Trade Union or of an International Local Trade Union are applied equally and fairly with respect to independent organizations.

THE CHAIRMAN: Mr. Smith, is it not your contention largely that in addition to the present representation on the Board that the independent organizations should also have representation? Basically, that is your view, in connection with this part?

MR. SMITH: I think, Mr. Chairman, I would say that the balance of the labour forces in Ontario should have someone put on that Board, and who appoints him, I don't know.

Mr. Daley met me some years ago before he reduced this force. I suggested a three-man Board: A Chairman who knew this business, a representative of the government, a representative of the general public, because you are only talking to the Chairman anyway, in my opinion.

THE CHAIRMAN: Let us disregard your opinion for the moment. What we are interested in knowing is this: You feel the independent

organizations are not properly represented on the Ontario Labour Relations Board?

MR. SMITH: I certainly do not think they are.

MR. METZLER: As a fact, if you refer to Section 66 of the Act, you will see that in sub-section (2), "The Board shall consist of a Chairman and four other members who shall be equally representative of employers and employees." That is the way the Board is composed. It was reduced not from nine, but from seven to five.

7 THE CHAIRMAN: And who chooses the representative?

MR. SMITH: They are nominated.

THE CHAIRMAN: By whom?

MR. SMITH: The present representative was nominated originally, but the union representative had two employee representatives who are nominated, one by the Canadian Congress of Labour and the other by the Trades and Labour Congress of Canada. You know these two organizations have now merged to form the Canadian Labour Congress, the composition of our Board now remains the same.

THE CHAIRMAN: Has there ever been a nominee by the independent labour unions?

MR. SMITH: No. The employer representatives are nominated by the Canadian Manufacturers Association and by other organizations

whose business it is to represent employers in the field of collective bargaining. They get together and nominate, as they did, for instance, recently when Mr. Ferguson left the Board and was replaced by Mr. Donland. Mr. Donland represents the Canadian Manufacturers Association and two or three other organizations that are in this picture.

MR. MORNINGSTAR: Well, Mr. Metzler, how would they go about getting representatives on this Board, then? Is there any way that these independent unions ---

MR. SMITH: I couldn't very well suggest it. The Board is a full Board. Its complement is required by the legislation, and there it is.

THE CHAIRMAN: I think there was some other organization which made a representation to us that in view of the amalgamation that has recently taken place between the two congresses, that actually the other segment of our population forming the remaining employee force is not represented on the Board.

MR. SMITH: That is right.

MR. METZLER: Mr. Smith has made the suggestion that he suggested to the Minister that the Board be reduced from five to three. I would say that that would be impossible of operation. You must have a five-man Board at least, because if you have a three-man Board and one person were

unable to sit, then you would be in a terrible situation.

THE CHAIRMAN: Well, the whole difficulty seems to be who is going to represent Labour on the Board, and I don't know that it is something that we have anything to do with. The Act says that two employee representatives shall be on the Board. **Now,** they are nominated to be on the Board by Labour.

MR. SMITH: That is right.

MR. WREN: Have you ever forwarded an official request to the Minister of Labour to be represented on the Board?

MR. SMITH: Yes. I used to take delegations quite regularly, and on every occasion I have gone up until 1953, we have made the same request.

We are quite willing to take a canvass of independent unions and tell them to send in a nomination for a man on this Board. The Canadian Steelworkers and Atlas Steel, it is a powerful organization with 3,700 ---

THE CHAIRMAN: Mr. Smith, I think you have made your point clear to us in this particular aspect of it, and we assure you that we will give it our consideration in this Committee.

Now, on page 4, gentlemen, "The Labour Relations Act", extending to page 7.

MR. WREN: May I ask Mr. Metzler a

question, Mr. Chairman. I am trying to understand earlier evidence. Is it so that a group of people must actually be a trade union to seek certification? I understand it to be that any group of employees who wanted to band themselves together ---

MR. METZLER: Mr. Wren, if you take any statute, you will notice the first section of the Act is always an interpretive section. It provides definitions of the terms to be used in the legislation. If you will refer to Section 1, sub-section (i), the definition of a trade union reads as follows:

> "Trade union means an organization
> "of employees formed for purposes
> "that include the regulation of
> "relations between employees and
> "employers",

and includes a provincial, national or international trade union. That is the definition. So that, it is possible for a group of employees of their own volition to form in a plant an organization.

It must be an organization. It must have some charter in the sense that -- or by-laws to control it just as any other organization, any voluntary organization that you form. As to how that organization will be governed, it is the practice of the Board when such an organization applies to the Labour Relations Board to examine into the details of the formation of the organization because the

Board must satisfy itself, as it is required under the legislation, that this organization is a proper one, that it is the independent expression of views, the desires of the employees to set up, and that it has proceeded in an orderly fashion to give the people who belong to it an opportunity to take part in its formation and to take a membership in it.

MR. MYERS: Why the amendment? Why did you add the words "and includes a provincial, national and international trade union"?

MR. METZLER: The definition was wide enough.

MR. MYERS: You did not want to limit it?

MR. METZLER: It was wide enough to permit greivances on a national, provincial or international basis. We have instances where international unions as such are certified as a bargaining agent of the employees of the particular unions.

MR. YAREMKO: When the Act defines it as an organization, it means an organized group and not just a group?

MR. METZLER: That is right.

MR. YAREMKO: And that is why you ask for evidence of properly elected officers?

MR. METZLER: That is right.

MR. YAREMKO: Regularly adopted constitutions?

MR. METZLER: That is right.

MR. YAREMKO: That was a payment of fees. Mr. Smith, what are these other highly exacting and technical things?

MR. SMITH: Mr. Chairman, I am sorry I can't go along on these things. I have two gentlemen here that went specifically to call a meeting on a constitution last year, and here is the kind of things that go on here: "Where did you adopt your constitution? How many were present at the meeting to adopt your constitution? What is the date of your constitution? Did you hold a meeting to elect your officers before you ---". Gentlemen, I am telling you the facts.

MR. MacDONALD: What is wrong with those questions?

MR. SMITH: There is a lot wrong with those questions. A lot of amateurs are deprived of their rights because they can't meet those requirements. I say that is not fair. Many a trade organization has gone down there and then they quit.

THE CHAIRMAN: What is your position in this organization?

MR. SMITH: Well, my position today is an advisor to the independent unions.

THE CHAIRMAN: Well, do you think you are capable of advising them of these matters?

MR. SMITH: I advised all of them on these matters. Any person that comes to me and is desirous of forming an organization and is desirous to secure freedom, he will find me a friend.

THE CHAIRMAN: Well, where do other people get their advice?

MR. SMITH: They get their advice from high-priced lawyers.

THE CHAIRMAN: They are not more capable than you?

MR. SMITH: They are more capable of paying than I am. I am here this afternoon out of the goodness of my heart.

THE CHAIRMAN: Well, I mean we meet a lot of people who are dedicated to a movement, such as yourself.

MR. SMITH: Thank you very much. That don't give me anything to eat.

THE CHAIRMAN: I know that. But that, unfortunately, we cannot provide for you. We feel we are not getting enough to eat ourselves.

MR. YAREMKO: Mr. Chairman, if I may direct a question to Mr. Metzler ...

MR. SMITH: But that is the situation there, Mr. Chairman, and I am prepared to prove my statement with Mr. Finkelman right to this Board.

MR. WREN: Would you think that is a reasonable request? When you say a bunch of amateurs you are dealing with, you have a meeting to draw up your constitution and elect officers, surely you keep minutes of that and a list of the people who were there. I don't think it would have to be a very highly legal document.

8 MR. SMITH: Did you ever read one of those constitutions thoroughly?

MR. WREN: Oh, yes.

THE CHAIRMAN: There are constitutions and constitutions, Mr. Smith.

MR. SMITH: The one down there must be a constitution.

MR. REAUME: With a big C.

MR. SMITH: Look, gentlemen, I don't want to labour the point, but you can have the Board here. I will give you the facts. They can't get away from the facts I have.

That is a direct statement I am making here today. I am sick and tired of a Labour Relations Act that does not give every individual in this province the proper protection he should have.

MR. REAUME: I would think that if what you say is true, then there really is something going on that our Board -- you have said in effect that our Board rigs cases in order that they may

give the benefit of the doubt, if you want to put it that way, to an international or big unions?

MR. SMITH: That is what I am saying.

MR. REAUME: I want to say this, that that is a very serious thing.

MR. SMITH: Yes.

MR. REAUME: And you should be able to prove that or we should have the Board up here. Now, one thing or the other. I don't think that a statement of that kind can go unchallenged, and I feel that you should be called upon properly under oath to prove these things. That is a very serious thing.

MR. SMITH: That is correct.

MR. METZLER: Mr. Chairman, just in connection with the establishment of proof of the existence of an organization, I would say that at one stage or another, all your international unions have had to establish to the complete satisfaction of the Ontario Labour Relations Board its position as an organization and as an international union, not only the local but the international union, and they have had to produce the necessary evidence at some stage in their early history before the Labour Relations Board, that they were a trade union within the meaning -- or the locals that they chartered were trade unions within the meaning of the definition of

the Labour Relations Act.

It is a fact that the Labour Relations Board does not require the same proof to be made in every individual case because it already has established and satisfied its validity and the validity of the organization. That has already been done.

MR. JACKSON: Mr. Smith, are you objecting to the manner in which it is done or the procedure that has to be followed?

MR. SMITH: I am objecting to the procedure before the Board. They are not giving equal and impartial representation to all parties that appear before them.

THE CHAIRMAN: You have gone a little further than that. You have made a definite accusation, that at least in one case an agreement they entered into, consummated by a third person on behalf of two other people, had by deception been withdrawn, and as a result, certification of an organization which did not truly represent the workers took place.

MR. SMITH: Most definitely.

THE CHAIRMAN: Now, that is a very serious charge. It is 4.00 o'clock now. We adjourn at 4.00. But you can expect that you are going to hear further from this Committee through our Secretary, and when you do, we will

expect that you will be here to finish the continuation of this brief, and at the same time to be prepared to submit yourself and whatever witnesses you might care to call to examination under oath, if necessary.

MR. SMITH: Correct, quite right.

THE CHAIRMAN: You will have to have the facts.

MR. SMITH: That is right. That is satisfactory.

MR. MYERS: And let me say, Mr. Chairman, he can be represented by counsel.

THE CHAIRMAN: Oh yes. And you are entitled to be represented by counsel.

MR. SMITH: I can very well handle my own counsel.

THE CHAIRMAN: I expect that you can, but there is an old saying that a man should not be his own advocate. I would suggest to you, in view of the seriousness of this matter, that you should seek some legal advice on your rights.

MR. SMITH: When a person is right, it doesn't ---

THE CHAIRMAN: That is all right. I am telling you as Chairman of this Committee and as a lawyer that you would be very well advised to consult and seek legal advice before you come back to give this evidence.

MR. SMITH: I don't think I need that.

THE CHAIRMAN: At least we have told you.

MR. METZLER: Before you adjourn the proceedings, I would like to state flatly that I do not believe ---

THE CHAIRMAN: Mr. Metzler, just a moment. We don't want to get into controversy about the matter now. There will be a time when Mr. Smith is going to be here again, at which time we will expect the Labour Relations Board to also be in attendance, and at that time we will go into this matter further.

Gentlemen, it is now 4.00 o'clock. This Committee will adjourn until Tuesday, October 15th at 11.00 a.m. when we will hear a submission from the United Automobile Workers, U.A.W.

---Whereupon the Committee adjourned at 4.00 a.m., to resume on October 15, 1957, at 11.00 a.m.

-(Page 1575 follows).

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